

NOV 24 2009

DEPT OF INSURANCE  
BY *CB*

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

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3 In the Matter of )  
4 **LMI INSURANCE COMPANY** )  
5 **COMPANY IN LIQUIDATION** )  
6 (NAIC No. 23086) )  
Petitioner. )

Docket No. 09A-143-INS

**ORDER RELEASING WORKERS'  
COMPENSATION DEPOSIT**

7  
8 Arizona Revised Statutes (A.R.S.) § 23-961 provides that workers' compensation  
9 deposits shall be held by the Director of Insurance (the "Director") as security for fulfillment of  
10 the obligations of an insurer under Title 23. A.R.S. §20-588(A)(3) provides that deposited  
11 funds shall be released upon proper order of a court of competent jurisdiction to the receiver  
12 of the insurer, upon application to and written order of the Director of Insurance.

13  
14 **FINDINGS OF FACT**

- 15 1. LMI Insurance Company in Liquidation ("Petitioner") received its certificate of  
16 authority to transact casualty with workers' compensation, marine and transportation, property,  
17 surety, and vehicle insurance in Arizona on December 12, 1975.
- 18 2. The Director suspended Petitioner's certificate of authority on October 13, 1998.
- 19 3. On May 23, 2000, the Court of Common Pleas, Franklin County, Ohio in Case  
20 No. 00 CVH03-2431 ordered LMI Insurance Company liquidated and appointed the Ohio  
21 Director of Insurance as Liquidator.
- 22 4. Petitioner has a workers' compensation deposit in the approximate amount of  
23 \$110,000 (One hundred ten thousand dollars) currently being held by the Director through the

1 Arizona State Treasurer exclusively as security for the fulfillment of Petitioner's workers'  
2 compensation obligations pursuant to A.R.S. § 23-961 (the "LMI WC Deposit").

3 5. The Director of the Ohio Department of Insurance acting in the capacity of Court  
4 Appointed Liquidator of the Petitioner ("Liquidator"), The Industrial Commission of Arizona  
5 ("ICA"), and the Director of the Arizona Department of Insurance (the "Director") entered into  
6 an Agreement For Release of Workers' Compensation Deposit dated November 11, 2009  
7 (Exhibit A) (the "Agreement"), wherein the Liquidator on behalf of the Petitioner, the ICA and  
8 the Director agree that the Director release the LMI WC Deposit held by the Director to the  
9 ICA pursuant to the terms of the Agreement.

#### 11 CONCLUSIONS OF LAW

12 1. The Director has no personal liability for the release of such deposit so made by  
13 her in good faith as provided in A.R.S. §20-588 (B).

14 2. The ICA is entitled to the release of the workers' compensation deposit pursuant  
15 to A.R.S. Title 23 and the Agreement.

#### 16 ORDER

17 THEREFORE, IT IS ORDERED that the LMI WC Deposit in the approximate amount of  
18 \$110,000 (One hundred ten thousand dollars) shall be released to the ICA.

19 DATED this 24<sup>th</sup> day of November, 2009.

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22 

23 CHRISTINA URIAS  
Director of Insurance

1 COPY of the foregoing mailed/delivered  
this 24<sup>th</sup> day of November, 2009, to:

2  
3 Lynda G. Loomis  
Chief Deputy Liquidator  
4 Office of the Ohio Insurance Liquidator  
50 W. Town Street, Suite 350  
5 Columbus, Ohio 43215

6 Corey McDaniel  
Staff/Investment Accountant  
7 Office of the Ohio Insurance Liquidator  
50 W. Town St. Suite 350  
8 Columbus, Ohio 43215

9 Laura McGrory  
Executive Director  
10 Industrial Commission of Arizona  
800 W. Washington  
11 Phoenix, Arizona 85007-2922

12 Michael Primiano  
Staff Attorney  
13 Industrial Commission of Arizona  
800 W. Washington  
14 Phoenix, Arizona 85007-2922

15 Gerrie Marks, Deputy Director  
Steve Ferguson, Assistant Director  
16 Leslie Hess, Deputy Receiver  
Arizona Department of Insurance  
2910 North 44<sup>th</sup> Street, Suite 210  
17 Phoenix, AZ 85018

18  
19 

20 Curvey Walters Burton  
21  
22  
23

## AGREEMENT FOR RELEASE OF WORKERS' COMPENSATION DEPOSIT

This Agreement for Release of Workers' Compensation Deposit ("Release Agreement") is entered into and is effective this 11<sup>th</sup> day of November, 2009, between Christina Urias, Director of the Arizona Department of Insurance (the "Director" or "ADOI"), Mary Jo Hudson, Director of the Ohio Department of Insurance acting in the capacity of Court Appointed Liquidator ("Liquidator") of LMI Insurance Company, in Liquidation ("LMI") an Ohio corporation, and the Industrial Commission of Arizona ("the ICA").

### Recitals

A. On May 23, 2000, the Court of Common Pleas, Franklin County, Ohio ("Liquidation Court"), in Case No. 00 CVH03-2431 ordered LMI Insurance Company liquidated and appointed the Ohio Director of Insurance as Liquidator.

B. LMI has assets in Arizona which include a workers' compensation deposit held by the Director through the Arizona State Treasurer in an amount of approximately \$110,000 (One hundred ten thousand dollars) ("WC Deposit").

C. The ICA represents that it has liability to pay Arizona workers' compensation benefits to Arizona claimants in fulfillment of LMI's obligations under Arizona Revised Statutes, Title 23, Chapter 6, which obligation is secured by the deposit referenced in Recital B.

D. The Liquidator wishes to provide the ICA with early access to the WC Deposit by requesting the Director distribute the WC Deposit to the ICA in payment of LMI's Arizona workers' compensation obligations.

### Agreement

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Liquidator, Director and ICA agree as follows:

1. Upon execution of this Release Agreement by all parties, the Director shall issue an Order releasing the Workers' Compensation Deposit held in trust with the Arizona

State Treasurer to the ICA as an early access distribution of assets of LMI in partial payment of LMI's workers' compensation obligations to Arizona residents.

2. The Liquidator hereby acknowledges the right and obligation of the ICA to apply the WC Deposit to pay the covered claims of Arizona resident claimants and insured policyholders of LMI, together with loss adjustment and administrative expenses, and hereby consents to the Director's transfer of the WC Deposit to the ICA.

3. The ICA shall report to the Liquidator, at least quarterly, the claims paid by the ICA out of the WC Deposit.

4. Should the Liquidator decide to make disbursements to guaranty associations under any early access plan or upon final distributions which may be approved by the Liquidation Court, the ICA agrees that the WC Deposit will be credited against any distribution it may be entitled to receive and only the excess, if any, would be paid to the ICA.

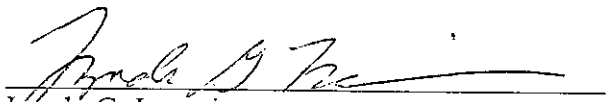
5. Upon the closing of the domiciliary proceeding by the Liquidator, excess funds remaining in the WC Deposit, if any, will be returned to the Liquidator ("Excess Deposit"). In the event the ICA and the Liquidator do not agree on the amount of Excess Deposit, if any, a determination of the amount, if any, of the Excess Deposit shall be made pursuant to an actuarial study to be provided by the ICA to the Liquidator upon the Liquidator's notification to the ICA that closure of the domiciliary proceeding will be occurring no earlier than 90 days from the date of notice.

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed as of the date first written above.

**LIQUIDATOR**

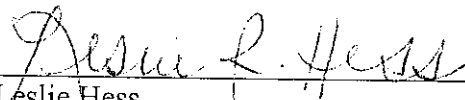
LMI Insurance Company, in Liquidation

By:

  
Lynda G. Loomis  
Chief Deputy Liquidator

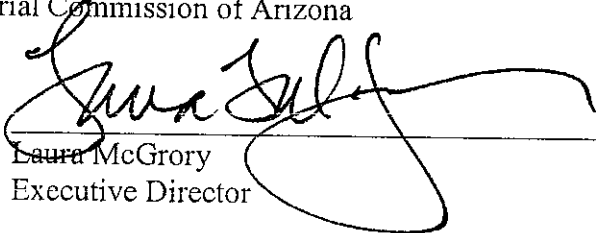
**DIRECTOR**

Christina Urias, Director of the Arizona Department of Insurance

By:   
Leslie Hess  
Deputy Receiver

**ICA**

Industrial Commission of Arizona

By:   
Laura McGrory  
Executive Director