STATE		

STATE OF ARIZONA FILED

DEPARTMENT OF INSURANCE

APR 17 2015

In the Matter of the Surplus Contribution to ELITE TRANSPORTATION RISK RETENTION GROUP, INC. (NAIC No. 10125)	DEPT OF INSURANCE Docket No. 15A-038Y-INS ORDER SUA SPONTE
from Bull's-Eye Express, Inc. Real Party in Interest.))))

The Arizona Department of Insurance (the "Department"), pursuant to the authority granted in Arizona Revised Statutes §20-1098.03(B), makes the following disposition of an unconditional letter of credit payable to, filed with, and held by the Director in trust for the protection of all policyholders, ceding insurers, and related expenses.

FINDINGS OF FACT

- 1. Elite Transportation Risk Retention Group, Inc. ("Elite") is an Arizona-domiciled risk retention group, founded and licensed in 2005 which specializes in commercial transportation companies. Elite is an insurance company permitted under the Risk Retention Group Act of 1986. Elite is an Arizona captive, owned and capitalized by its policyholders, all of which are in a common industry.
- 2. Real Party in Interest, Bull's-Eye Express, Inc. ("Bull's-Eye"), is an active carrier operating under USDOT Number 716717. Bull's-Eye is a member-policyholder of Elite.
- 3. In accordance with A.R.S. §20-1098.03(B), the minimum capital and surplus requirements, Bull's-Eye made a surplus contribution to Elite in the form of a letter of credit in the amount of \$64,000. The letter of credit was issued by York Traditions Bank (their

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22 23 reference number 2011-001) dated January 3, 2011, and PNC Bank was the confirming bank (PNC reference 18121506-00-000).

- 4. On December 11, 2014, PNC notified the Department that it elected not to renew the letter of credit, and the credit would expire on April 15, 2015.
- 5. Pursuant to Article 6 of the Shareholder Agreement between Elite and Bull's-Eye, Elite is entitled to hold contributed surplus funds for at least one year after termination of coverage. The agreement also provides that any capital return is subject to approval by the Board of Directors and the Department.
- 6. At this time, neither the Board of Directors nor the Department has approved a capital return to Bull's-Eye.

CONCLUSIONS OF LAW

- 1. The expiring letter of credit is payable to, filed with, and held by the Director in trust for the protection of all policyholders, ceding insurers, and related expenses, as required by A.RS. §20-1098.03(B).
- 2. Pursuant to the definitions in A.R.S. §20-1098, Elite is an owner-controlled insurance company.
- 3. Under both the Shareholder Agreement and A.R.S. §20-1098.03(B), Elite, which is owned and capitalized by its policyholders, is entitled to hold contributed surplus funds for at least one year after termination.

ORDER

IT IS ORDERED calling the letter of credit identified as PNC reference 18121506-00-000 and forwarding the proceeds to Elite, as permitted by A.R.S. §20-1098.03(B).

IT IS FURTHER ORDERED THAT Elite shall hold the proceeds from the letter of credit in accordance with all relevant sections of the Shareholder Agreement and other governing

documents. Elite shall seek approval from the Board of Directors and the Department before arranging the capital return to Bull's-Eye.

DATED this 15th day of April, 2015.

GERMAINE L. MARKS
Director of Insurance

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NOTIFICATION OF RIGHTS

You have the right to request a hearing on this determination by filing a notice of appeal after your receipt of this notice. The notice of appeal must identify the party appealing, the party's address, the matter being appealed and must contain a detailed statement of the reason for the appeal. Your hearing will be treated as a "contested case" and promptly instituted and determined as prescribed by A.R.S. §§41-1001(4), 41-1092.11(B) and 41-1092.05(E) to the extent the Office of Administrative Hearings calendar permits. In any event, your hearing will be held within sixty (60) days of your notice of appeal is filed, unless the hearing is advanced or delayed by agreement or a showing of good cause by any party. The Department of Insurance will promptly serve a "Notice of Hearing" in accordance with A.R.S. §41-1092.05(E) that will inform you of the date, time and location of the hearing as well as the issues.

If you file an appeal, you may also request an "informal settlement conference" pursuant to A.R.S. §41-1092.06 by filing a written request **no more than twenty (20) days before the scheduled hearing.** The conference will be held within fifteen (15) days after our receipt of your request. If an informal settlement conference is requested, a person with the authority to act on behalf of the Department of Insurance will be present. Please note that you waive any right to object to the participation of the Department's representative in the final administrative decision of the matter if it is not settled.

Your notice of appeal and/or request for an informal settlement conference may be addressed to the attention of:

Hearing Administration
Arizona Department of Insurance
Notice of Appeal
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018-7256

1	COPY of the foregoing mailed/hand-delivered this by day of April, 2015, to:	
2	Elite Transportation Risk Retention Group, Inc.	
3	c/o Risk Services 1605 Main Street, SUITE 800	
4	Sarasota, FL 34236	
5	Rick Keller Bull's Eye Express, Inc.	
6	5 Willow Springs Circle York, PA 17402	
7	Lynette Evans	
8	Assistant Attorney General Arizona Attorney General's Office	
9	1275 West Washington Phoenix, Arizona 85007	
10	Darren Ellingson, Deputy Director	
11	Kurt Regner, Assistant Director Vincent R. Gosz, Chief Captive Analyst	
12	Shelby Cuevas, Financial Affairs Legal Analyst Arizona Department of Insurance	
13	2910 N. 44th Street, Suite 210 Phoenix, Arizona 85018	
14	A BARRA	
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