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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

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In the Matter of: )  
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 **RICHARD IRA SHEAR and ARIZONA** )  
 **ASSET PARTNERS I, INC.,** )  
 )  
 Respondents. )  
 \_\_\_\_\_ )

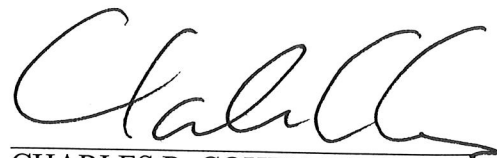
No. 00A-010-INS

**ORDER SUMMARILY SUSPENDING  
LICENSES AND NOTICE OF HEARING**

The Arizona Department of Insurance (the "Department") alleges that Richard Ira Shear ("Respondent Shear") and Arizona Asset Partners I, Inc. ("Respondent Arizona Asset"), have violated provisions of Arizona Revised Statutes ("A.R.S."), Title 20. In light of the serious nature of these allegations, the Director of Insurance for the State of Arizona ("Director") finds that the public health, safety and welfare imperatively require emergency action, within the meaning of A.R.S. § 41-1092.11(B).

THEREFORE, IT IS ORDERED summarily suspending the Arizona insurance licenses held by Respondents, effective immediately, pending the proceedings for revocation commenced this date.

EFFECTIVE this 18<sup>th</sup> day of January, 2000.



CHARLES R. COHEN, Director  
Arizona Department of Insurance

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## NOTICE OF HEARING

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes (“A.R.S.”) §§ 20-161 through and including 20-165, 41-1061 through and including 41-1066 and 41-1092.01, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona or his duly designated representative, on the 22nd day of February, 2000, at 9:00 a.m. at the Office of Administrative Hearings, 1400 West Washington Street, Suite 101, Phoenix, Arizona 85007 (the “Hearing”).

Motions to continue this matter shall be made in writing to the Administrative Law Judge not less than fifteen (15) days prior to the date set for the hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. § 20-164(B) entitles any person affected by this Hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present supporting evidence and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

If Respondents are represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, if Respondent is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. § 20-161(B).

Pursuant to A.R.S. § 41-1092.07(D), a clear and accurate record of the proceedings will be made by a court reporter or by electronic means. Any party that requests a transcript of the proceeding shall pay the cost of the transcript to the court reporter or other transcriber.

Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Michael J. De La Cruz (602) 542-3702, 1275 West Washington, Phoenix, Arizona 85007.



1           2.       Respondent Arizona Asset Partners I, Inc. is currently, and was at all material  
2 times, licensed as an agency to transact life and disability and variable annuity insurance business  
3 in the state of Arizona, license number 62020, which license expires April 30, 2000. Respondent  
4 Arizona Asset is conducting its insurance business under the assumed business names of Arizona  
5 Asset Management and Arizona Asset Administrators. Respondents failed to file a Certificate of  
6 Assumed Business Name with the Department prior to operating under the aforementioned  
7 assumed business names as required by A.R.S. § 20-318.

8           3.       Respondent Shear is an owner and officer of Arizona Asset and is authorized to  
9 exercise the powers of Arizona Asset's license. Respondent Shear is listed as President/Chief  
10 Executive Officer of Arizona Asset.

11          4.       Between November 1, 1999 and January 3, 2000, the Department received  
12 complaints alleging that Respondents have engaged in the following conduct: misappropriated  
13 and/or converted to their own use insurance monies belonging to either clients or carriers in an  
14 approximate amount of over \$2,000,000 by surrendering life insurance policies for cash values,  
15 taken out loans from said policies for personal use and personally taken out policies on the lives of  
16 clients to receive large commissions and then allowed the policies to lapse. This conduct allegedly  
17 occurred without authorization from or the knowledge of Respondents' clients and carriers.

18          5.       On November 4, 1999, the Department issued a subpoena duces tecum to  
19 Respondents and two other licensed insurance agents in Respondent Shear's office for the  
20 production of "any and all contracts, agreements, policies, binders, certificates, applications,  
21 correspondence, documents, memos, notes, accounting and bank records, receipts, checks, ledgers,  
22 and records of premiums and commissions received pertaining to any insurance or insurance type  
23 policies or risks placed with, sold by and or secured in behalf of or solicited by and or from the  
24 above named persons and entities."

25          6.       On November 9, 1999, Department investigators hand-delivered the  
26 aforementioned subpoena to Respondent Shear for the immediate surrender of the requested

1 documents. Respondents' files were in a state of complete disarray. During the on-site inspection,  
2 Department investigators requested nine consumer files, of which Respondent Shear was only able  
3 to produce five. Respondent Shear represented that he would produce the remaining files on  
4 November 10, 1999, but failed to do so. Respondent Shear then further represented that he would  
5 produce the remaining files on November 12, 1999, but still failed to do so.

6 7. While on site at Respondents' office, Department investigators witnessed  
7 Respondent Shear removing select documents from the requested files. Department investigators  
8 immediately confronted Respondent Shear and specifically requested the documents that were  
9 removed from the selected files. Respondent Shear produced what he represented to be the  
10 missing documents; however, based on the chronology of the files, it appears some vital  
11 documents are missing.

12 8. On November 15, 1999, the Department issued a subpoena duces tecum to  
13 Respondents, Arizona Asset Management, Inc. and Arizona Asset Administrators. On November  
14 15, 1999, Department investigators hand-delivered the subpoena to Respondents with a return date  
15 of November 18, 1999, for production of the documents.

16 9. The subjects of the subpoena were Pasquale and Carol Nunzio; Evelyn Simmons;  
17 Richard Laue; Charles Thomas; Bank of America account numbers 252533892, 988027032 and  
18 252532689; and Bank One account number 07595465. The documents to be produced pursuant to  
19 the subpoena were 1) any and all contracts, agreements, policies, binders, certificates, applications,  
20 correspondence, documents, memos, notes, receipts of payment and records of premiums and  
21 commissions received pertaining to any insurance or insurance type policies or risks placed with,  
22 sold by, or secured in behalf of or solicited by and or from the individuals or entities named above  
23 and 2) copies of all monthly account statements, checks (front and back) written on and deposit  
24 slips for, each of the above-listed bank accounts from January 1, 1998 through October 31, 1999.  
25 Respondent Shear is named on or is a signatory on the four bank accounts listed above.

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1           16.       Respondents' conduct as alleged above constitutes a conduct of affairs under the  
2 licenses showing the licensees to be incompetent or a source of injury and loss to, or repeated  
3 complaint by, the public or any insurer, within the meaning of A.R.S. § 20-316(A)(7).

4           17.       The license of a firm or corporation may be suspended, revoked or refused also for  
5 any of such causes as relate to any individual designated in the license to exercise its powers  
6 pursuant to A.R.S. § 20-316(B).

7           18.       Grounds exist for the Director to suspend, revoke or refuse to renew Respondents'  
8 insurance licenses, impose a civil penalty upon Respondents and/or order restitution, pursuant to  
9 A.R.S. § 20-316(A) and 20-316(C).

10           WHEREFORE, if after hearing, the Director makes a finding of one or more of the above-  
11 described allegations, the Director may suspend, revoke or refuse to renew Respondents' insurance  
12 licenses, impose a civil penalty and order restitution, pursuant to A.R.S. § 20-316(A), 20-316(B),  
13 20-316(C) and 20-456(B).

14           Pursuant to A.R.S. § 20-150, the Director of Insurance delegates the authority vested in the  
15 Director of Insurance of the State of Arizona, whether implied or expressed, to the Director of the  
16 Office of Administrative Hearings or his designee to preside over the hearing of this matter as the  
17 Administrative Law Judge, to make written recommendations to the Director of Insurance  
18 consisting of proposed findings of fact, proposed conclusions of law, and a proposed order. This  
19 delegation does not include delegation of the authority of the Director of Insurance to make the  
20 order on hearing or other final decision in this matter.

21           Pursuant to A.R.S. § 41-1092.01, your hearing will be conducted through the Office of  
22 Administrative Hearings, an independent agency. Enclosed is a copy of the procedures to be  
23 followed.

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1 DATED this 18<sup>th</sup> day of January, 2000.

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4 CHARLES R. COHEN, Director  
Arizona Department of Insurance

5 COPY of the foregoing mailed  
6 this 18<sup>th</sup> day of January 2000 to:

7 Office of Administrative Hearings  
8 1700 West Washington, Suite 602  
9 Phoenix, AZ 85007

10 Michael J. De La Cruz  
11 Assistant Attorney General  
12 1275 West Washington Street  
13 Phoenix, Arizona 85007  
14 Attorney for the Department

15 Charles R. Cohen, Deputy Director  
16 John Gagne, Assistant Director  
17 Arnold Sniegowski, Investigations Supervisor  
18 Donna D. Futrell, Investigator  
19 Maureen Catalioto, Supervisor  
20 Department of Insurance  
21 2910 North 44th Street, Suite 210  
22 Phoenix, Arizona 85018

23 Richard Ira Shear  
24 Arizona Asset Partners 1, Inc.  
25 9188 E. San Salvador Drive, Suite 203B  
26 Scottsdale, Arizona 85258  
Respondents

J. Michael Low  
LOW & CHILDERS, P.C.  
2999 North 44th Street, Suite 250  
Phoenix, Arizona 85018

A courtesy copy of this Notice of Hearing has been mailed/delivered to the persons listed below. If you are listed below, you will receive no further notices or documents concerning this matter other than the director's final order. Information about the status of this matter, including whether the hearing date has been changed, may be obtained by contacting the Department of Insurance at (602) 912-8454 or the Assistant Attorney General identified above, at (602) 542-3702.

Amerus Life Insurance Company  
Post Office Box 1555  
Des Moines, IA 50306-1555

Ameritas Variable Life I.C.  
Post Office Box 82550  
Lincoln, NE 68501-2550



1 Equitable Life Ins. of Iowa  
Post Office Box 1635  
2 Des Moines, IA 50306-1635

3 Lincoln Benefit Life Co.  
Post Office Box 80469  
4 Lincoln, NE 68501-0469

5 Acacia Life Ins. Co.  
7315 Wisconsin Avenue  
6 Bethesda, MD 20814


7 First Penn Pacific Life I.C.  
1801 South Meyers Road  
8 Oakbrook, IL 60181-5214

Massachusetts Mutual Life I.C.  
1295 State Street  
Springfield, MA 01111

Manufacturers Life I.C. of America  
Post Office Box 633  
Buffalo, NY 14201-0633

Inter-State Assurance Company  
Post Office Box 1907  
Des Moines, IA 50306-1907

Mega Agency Insurance Services, Inc.  
4100 Newport Place, #790  
Newport Beach, CA 92660

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