

NOV 4 2010

DEPT OF INSURANCE  
BY MS

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of )  
 )  
LINCOLN MEMORIAL LIFE INSURANCE )  
COMPANY IN LIQUIDATION )  
(TX) (NAIC No. 69833) )  
 )  
Petitioner. )

Docket No. 10A-152 -INS  
  
ORDER RELEASING  
DEPOSIT

A.R.S. §20-588(A)(3) provides that deposited funds shall be released and returned, upon proper order of a court of competent jurisdiction to the liquidator of an insurer upon application to and written order of the Director of Insurance ("Director").

**FINDINGS OF FACT**

1. Lincoln Memorial Life Insurance Company in Liquidation ("Petitioner"), a Texas domiciled insurance company, received its Arizona certificate of authority to transact life and disability insurance on April 26, 1967.

2. Petitioner has a statutory deposit in the form of a certificate of deposit pledged to the Director in the approximate amount of \$113,324.22 including accrued interest (the "Deposit").

3. On September 22, 2008, Lincoln Memorial Life Insurance Company was placed into liquidation in the District Court of Travis County, Texas, 250<sup>th</sup> Judicial District in Cause No. D-1-GV-08-000945 ("Receivership Court"). The Receivership Court appointed the Commissioner of Insurance for the State of Texas as Liquidator and authorized the Liquidator to take control and possession of Petitioner's property, assets and rights. The Liquidator appointed Donna J. Garrett as the Special Deputy Receiver ("SDR") of Petitioner.



1 Michael E. Surguine  
Executive Director  
2 Arizona Life and Disability Insurance Guaranty Fund  
1110 W. Washington Avenue, Suite 270  
3 Phoenix, Arizona 85007

4 Gerrie Marks, Deputy Director  
Steve Ferguson, Assistant Director  
5 Kurt Regner, Chief Financial Analyst  
Kelly Stephens, Compliance Manager  
6 Leslie Hess, Deputy Receiver  
Arizona Department of Insurance  
7 2910 North 44<sup>th</sup> Street, Second Floor  
Phoenix, AZ 85018

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9 *Maiden Scherer*  
Curvey Walters Burton *for*

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## AGREEMENT FOR RELEASE OF DEPOSIT

This Agreement for Release of Deposit ("Release Agreement") is entered into and is effective this 28 day of October, 2010, between Christina Urias, Director of the Arizona Department of Insurance (the "Director" or "ADOI"), Donna J. Garrett, Special Deputy Receiver of Lincoln Memorial Life Insurance Company ("Special Deputy Receiver" and "LMLIC," respectively), and the Arizona Life and Disability Insurance Guaranty Fund (the "Arizona Fund").

### Recitals

A. On September 22, 2008, Lincoln Memorial Life Insurance Company was placed into liquidation in the District Court of Travis County, Texas, 250<sup>th</sup> Judicial District in Cause No. D-1-GV-08-000945 ("Receivership Court"). The Receivership Court appointed the Commissioner of Insurance for the State of Texas as Liquidator and authorized the Liquidator to take control and possession of LMLIC's property, assets and rights. The Liquidator appointed Donna J. Garrett as the Special Deputy Receiver of LMLIC.

B LMLIC has assets in Arizona which include a statutory deposit consisting of a certificate of deposit in the name of LMLIC held in JPMorgan Chase Bank account ending in xxx6108. The certificate of deposit lists a maturity date of March 20, 2011, is pledged to the Director, and is currently valued in an amount of approximately \$113,324.22 including accrued interest (the "LMLIC Deposit").

C. The Arizona Fund (through the National Organization of Life and Health Guaranty Associations) and the Special Deputy Receiver have entered into a Service and Early Access Agreement which provides that the Fund may assign its interest in the LMLIC Deposit to the Special Deputy Receiver and thereupon be eligible for early access distributions or the Fund may obtain the LMLIC Deposit and not be eligible for early access distributions until the other Guaranty Associations have received an amount at least equal to the amount of the LMLIC

Deposit. The Arizona Fund wishes to obtain the LMLIC Deposit in accordance with the terms of the Service and Early Access Agreement.

D. The Special Deputy Receiver wishes to provide the Arizona Fund with early access to the LMLIC Deposit and the accrued interest thereon. The Special Deputy Receiver desires to assist the Director in taking all actions necessary in connection with the withdrawal and redemption of the LMLIC certificate of deposit and the distribution of the LMLIC Deposit plus accrued interest to the Arizona Fund.

#### Agreement

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Special Deputy Receiver, Director and Arizona Fund agree as follows:

1. Upon execution of this Release Agreement by all parties, the Director shall issue an Order releasing the LMLIC Deposit including accrued interest held in trust with the Arizona State Treasurer to the Arizona Fund as an early access distribution of assets of LMLIC pursuant to the terms of the Service and Early Access Agreement.

2. The Special Deputy Receiver hereby acknowledges the right and obligation of the Arizona Fund to apply the LMLIC Deposit to pay the covered claims of Arizona resident claimants and insured policyholders of LMLIC, together with loss adjustment and administrative expenses, and hereby consents to the Director's transfer of the LMLIC Deposit to the Arizona Fund.

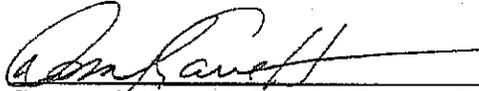
3. Should the Special Deputy Receiver decide to make disbursements to guaranty associations under any early access plan or upon final distributions which may be approved by the Receivership Court, the Arizona Fund agrees that the LMLIC Deposit will be credited against any distribution it may be entitled to receive and only the excess, if any, would be paid to the Arizona Fund.

4. Nothing in this Agreement shall vary the provisions of the Service and Early Access Agreement entered into by and between the Special Deputy Receiver and NOLHGA and to the extent of any conflicts, the provisions of the Early Access Agreement shall prevail.

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

**SPECIAL DEPUTY RECEIVER**

Lincoln Memorial Life Insurance Company, in Liquidation

By:   
\_\_\_\_\_  
Donna J. Garrett, Special Deputy Receiver

**DIRECTOR**

Christina Urias, Director of the Arizona Department of Insurance

By:   
\_\_\_\_\_  
Leslie Hess  
Deputy Receiver

**ARIZONA FUND**

Arizona Life and Disability Insurance Guaranty Fund

By:   
\_\_\_\_\_  
Michael E. Surguine  
Executive Director