

FEB 4 1999

DEPT. OF INSURANCE
BY BB

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of the Acquisition of Control of:)	Docket No. 99A-003-INS
)	
ARCADIA GENERAL INSURANCE)	
COMPANY (NAIC No. 28100))	ORDER
)	
Insurer,)	
)	
by)	
)	
AMERICAN HORIZON HOLDINGS, INC.)	
)	
Petitioner.)	
)	
)	

On January 29, 1999, the Office of Administrative Hearings, through Administrative Law Judge Casey J. Newcomb, issued a Recommended Decision of the Administrative Law Judge (“Recommended Decision”), a copy of which is attached and incorporated by this reference. The Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The recommended Findings of Fact and Conclusions of Law are adopted.
2. The acquisition of control of the Insurer by the Petitioner shall be approved subject to the express conditions as follows:
3. If the completed fingerprint cards furnished to the Department reveal that any of the Petitioner’s officers or directors have been charged with or convicted of a felony or misdemeanor other than minor traffic violations, the individual(s) shall be removed as an officer and/or director of the

1 Petitioner within 30 days after notice to the Petitioner by the Department and shall be replaced with an
2 officer or director acceptable to the Director. If the Petitioner fails to take the prescribed action within
3 thirty (30) days, this failure shall constitute an immediate danger to the public and the Director may
4 immediately suspend or revoke the Insurer's certificate of authority without further proceedings.

5 4. Except as provided below, all information, documents, and copies relating to the
6 Insurer and the Petitioner obtained by or disclosed to the Director, or any other person in the course of a
7 filing, an examination or an investigation made pursuant to A.R.S. §§ 20-481.03 and 20-481.20, shall
8 not be given confidential treatment, shall be subject to subpoena and shall be made public documents,
9 subject to inspection, examination or copying by any person.

10 5. The fingerprint cards and biographical affidavits submitted by the Petitioner to the
11 Department shall remain confidential pursuant to A.R.S. § 20-481.21.

12 6. The letters and documents (as set forth in Findings of Fact #9) submitted by the
13 Petitioner to Kurt Regner and the Department shall remain confidential pursuant to A.R.S. § 20-481.21.

14 7. The Petitioner shall advise the Director in writing of the effective date of the
15 change of control.

16 8. Until further notice from the Department, the Insurer shall file quarterly financial
17 statements following the effective date of the acquisition.

18 9. Upon consummation of this acquisition, the Insurer shall file its registration
19 statement in the form prescribed by A.R.S. § 20-481.10 and within the time period prescribed by A.R.S.
20 § 20-481.09 or § 20-481.13. If the registration statement would duplicate the information previously
21 submitted by the Petitioner in the statement filed with the Department pursuant to A.R.S. § 20-481.03
22 and there have been no material changes since the filing of that statement, then the Insurer shall submit a
23

1 statement to that effect incorporating by reference the statement previously filed with the Department in
2 lieu of the registration statement.

3 10. The Petitioner and/or Insurer shall promptly remit payment of all expenses
4 incurred as a result of the proposed acquisition to the Insurance Examiners' Revolving Fund.

5 11. The failure to adhere to one or more of the above terms and conditions shall result
6 without further proceedings in the suspension or the revocation of the Insurer's certificate of authority.

7 NOTIFICATION OF RIGHTS

8 Pursuant to A.R.S. § 41-1092.09, the aggrieved party may request a rehearing with
9 respect to this Order by filing a written motion with the Director of the Department of Insurance within
10 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B).

11 The final decision of the Director may be appealed to the Superior Court of Maricopa
12 County for judicial review pursuant to A.R.S. §§ 12-904 and 20-166. A party filing an appeal must
13 notify the Office of Administrative Hearings of the appeal within ten days after filing the complaint
14 commencing the appeal, pursuant to A.R.S. § 12-904(B).

15 DATED this 3rd of February, 1999

16
17 

18 _____
19 Charles R. Cohen
20 Director of Insurance
21
22
23

1 A copy of the foregoing mailed
this 4th day of February, 1999

2 Sara Begley, Deputy Director
3 Mary Butterfield, Assistant Director
Catherine O'Neil, Legal Affairs Officer
4 Gary Torticill, Assistant Director
Kurt Regner, Examiner
5 Deloris Williamson, Assistant Director
Scott Greenberg, Business Administrator
6 Department of Insurance
2910 N. 44th Street, Suite 210
7 Phoenix, AZ 85018

8 Office of Administrative Hearings
1700 W. Washington, Suite 602
9 Phoenix, AZ 85007

10 Myron J. Resnick
American Horizon Holdings, Inc.
11 520 Lake-Cook Road, Suite 310
Deerfield, IL 60015-4926

12 Richard M. Seligman
13 Katten Muchin & Zavis
525 W. Monroe Street, Suite 1600
14 Chicago, IL 60661-3693

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1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of the Acquisition
4 of Control of :

Docket No. 99A-003-INS

5 ARCADIA GENERAL INSURANCE
6 COMPANY (NAIC No. 28100)

**RECOMMENDED DECISION OF THE
ADMINISTRATIVE LAW JUDGE**

7 Insurer,

8 by

9 AMERICAN HORIZON HOLDINGS, INC.,
10

11 Petitioner.
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15 On January 29, 1999, a hearing was held to consider the application for
16 the acquisition of control of Arcadia General Insurance Company (the "Insurer"),
17 filed by American Horizon Holdings, Inc. (the "Petitioner"), with the Arizona
18 Department of Insurance (the "Department"), and for approval of the Petitioner
19 as the controlling person of the Insurer pursuant to the provisions of A.R.S.
20 §§20-481 through 20-481.30, and A.A.C. R20-6-1402.

21 Attorney Darren V. Roman represented the Petitioner. Kurt Regner, the
22 Department's Examiner/Analyst, appeared as a witness. Based upon the entire
23 record in this matter, the following Findings of Fact, Conclusions of Law and
24 Recommended Decision are made:

25 **FINDINGS OF FACT**

- 26
- 27 1. The Insurer is a domestic insurer as defined in A.R.S. §20-481.02.
 - 28 2. The Petitioner has filed a statement as referenced in A.R.S. §§20-481.02 and
29 20-481.03, and in the form required by A.A.C. R20-6-1402.
30

- 1 3. The Insurer and its security holder(s) waived the ten (10) day notice required
2 by A.R.S. §20-481.07.
3
- 4 4. The Petitioner and the Insurer waived the notice requirements set forth in
5 A.R.S. §41-1092.05(D).
6
- 7 5. The evidence produced at the hearing established that the Petitioner's
8 acquisition of control of the Insurer:
9 a. Is not contrary to law;
10 b. Is not inequitable to the shareholders of any domestic insurer involved;
11 c. Would not substantially reduce the security of and service to be
12 rendered to the policyholders of the Insurer in this State or elsewhere;
13 d. Would not substantially lessen competition in insurance in this state or
14 tend to create a monopoly; and
15 e. Is not likely to be hazardous or prejudicial to the insurance-buying
16 public.
17
- 18 6. The evidence at the hearing further demonstrated that:
19 a. After the change of control, the Insurer would be able to satisfy the
20 requirements for the reissuance of a certificate of authority to write the line or
21 lines of business for which it is presently licensed;
22 b. The financial condition of the Petitioner would not jeopardize the
23 financial stability of the Insurer or prejudice the interest of its policyholders;
24 c. The plans or proposals that the Petitioner has to liquidate the Insurer,
25 sell its assets or consolidate or merge it with any person, or to make any other
26 material change in its business or corporate structure or management, are fair
27 and reasonable to policyholders of the Insurer and are in the public interest; and
28 d. The competence, experience and integrity of those persons who would
29 control the operation of the Insurer are such that it would be in the public interest
30

1 of the policyholders of the Insurer and of the public to permit the acquisition of
2 control.

3 7. The Petitioner has furnished completed fingerprint cards and biographical
4 affidavits to the Department to enable the Department to determine if any of
5 Petitioner's officers or directors have been charged with or convicted of a felony
6 or misdemeanor other than minor traffic violations.
7

8 8. The Petitioner requested that the fingerprint cards and biographical affidavits
9 submitted by the Petitioner to the Department remain confidential. The
10 Department had no objection to the Petitioner's request for confidentiality of
11 those records.
12

13 9. The Petitioner further requested that the following documents submitted to
14 Kurt Regner and the Department remain confidential:

- 15 a. The November 20, 1998 letter and all attached documents;
- 16 b. The December 7, 1998 letter and all attached documents (except
17 the attached Exhibits 1(a) through 1(h));
- 18 c. The December 10, 1998 letter and all attached documents (except the
19 Amendment to the Stock Purchase Agreement).
20

21 The Department had no objection to the Petitioner's request for confidentiality of
22 these documents.
23

24 10. Except as provided above, the interests of policyholders, shareholders or
25 the public will be served by the publication of all information, documents and
26 copies, relating to the Insurer and Petitioner, and obtained by or disclosed to the
27 Director, or any other person in the course of a filing, an examination, or an
28 investigation made pursuant to A.R.S. §§20-481.03, 20-481.10 and 20-481.20.
29
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1 11. Based upon his review of the Petitioner's Form A filing, Kurt Regner
2 represented his belief that the Petitioner's Form A filing is complete and in
3 compliance with Arizona law. Mr. Regner further recommended approval of this
4 acquisition.

5 **CONCLUSIONS OF LAW**

6 1. The evidence of record established that none of the enumerated grounds set
7 forth in A.R.S. §20-481.07(A) exist so as to provide a basis for disapproval or
8 rejection of Petitioner's acquisition of control of the Insurer.
9

10 2. Petitioner presented credible evidence for approval of its acquisition of control
11 of the Insurer and for the Petitioner to be a controlling person pursuant to the
12 provisions of A.R.S. §§20-481 through 20-481.30, and A.A.C. R20-6-1402.
13

14 **RECOMMENDED ORDER**

15 The undersigned Administrative Law Judge recommends that the
16 acquisition of control of the Insurer by the Petitioner be approved subject to the
17 express conditions as follows:
18

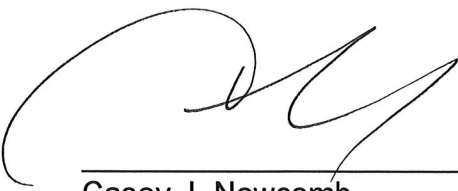
19 1. If the completed fingerprint cards furnished to the Department reveal that any
20 of the Petitioner's officers or directors have been charged with or convicted of a
21 felony or misdemeanor other than minor traffic violations, the individual(s) shall
22 be removed as an officer and/or director of the Petitioner within 30 days after
23 notice to the Petitioner by the Department and shall be replaced with an officer
24 or director acceptable to the Director. If the Petitioner fails to take the prescribed
25 action within thirty (30) days, this failure shall constitute an immediate danger to
26 the public and the Director may immediately suspend or revoke the Insurer's
27 certificate of authority without further proceedings.
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8. The Petitioner and/or Insurer shall promptly remit payment of all expenses incurred as a result of the proposed acquisition to the Insurance Examiners' Revolving Fund.

9. The failure to adhere to one or more of the above terms and conditions shall result without further proceedings in the suspension or the revocation of the Insurer's certificate of authority.

Done this day, January 29, 1999.



Casey J. Newcomb
Administrative Law Judge

Copy transmitted by mail this
15th day of February, 1999, to:

Mr. Charles R. Cohen, Director
Department of Insurance
ATTN: Curvey Burton
2910 North 44th Street, Ste. 210
Phoenix, AZ 85018

By Brenda H. Aduma