

DEC 29 1998

DEPT. OF INSURANCE  
BY Kath

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

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4 In the Matter of the Merger of: )  
5 PENNCO LIFE INSURANCE COMPANY )  
(NAIC No. 92061), )  
6 Insurer, )  
7 into )  
8 FIRST UNION LIFE INSURANCE )  
9 COMPANY (NAIC No. 72555), )  
10 Petitioner. )  
11

Docket No. 98A-196-INS

**ORDER**

12 On December 18, 1998, the Office of Administrative Hearings, through Administrative  
13 Law Judge Lewis D. Kowal, issued a Recommended Decision of Administrative Law Judge  
14 ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The  
15 Director of the Department of Insurance has reviewed the Recommended Decision and enters the  
16 following Order:

- 17 1. The recommended Findings of Fact and Conclusions of Law are adopted.  
18 2. The Petitioner may file its Articles of Merger with the Arizona Corporation  
19 Commission.  
20 3. Item #2 of the Recommended Order shall be deleted and replaced with the  
21 following:  
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1 The Plan and Agreement of merger between Insurer and Petitioner shall be  
2 approved.

3 4. Item #3 of the Recommended Order shall be deleted and replaced with the  
4 following:

5 The statutory deposit of Insurer in the amount of \$100,000.00 shall be  
6 released upon receipt by the Department of Insurance of the following: (1) a copy  
7 of the Articles of Merger of Insurer and Petitioner certified as having been filed  
8 with the Arizona Corporation Commission; and (2) a fully executed Form E126  
9 (Notice of Trust Deposit Release). The statutory deposit cannot be released until  
10 the Department receives a fully executed copy of the official State Treasurer  
11 Release Receipt Form E101.

12 5. The sum of \$100.00 previously credited to the Insurance Examiners' Revolving  
13 Fund shall be refunded to the Insurer pursuant to A.R.S. § 20-159.

14 6. The Insurer shall file a 1998 Annual Statement with the Department, together with  
15 all applicable fees, unless the Insurer files its Articles of Merger with the Arizona Corporation  
16 Commission on or before December 31, 1998.

#### 17 NOTIFICATION OF RIGHTS

18 Pursuant to A.R.S. § 41-1092.09, the aggrieved party may request a rehearing with  
19 respect to this Order by filing a written motion with the Director of the Department of Insurance within  
20 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B).

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

3 DATED this 28<sup>th</sup> of December, 1998

4 


5 \_\_\_\_\_  
6 Charles R. Cohen  
7 Director of Insurance

8 A copy of the foregoing mailed  
9 this 29 day of December, 1998

10 Sara M. Begley, Deputy Director  
11 Mary Butterfield, Assistant Director  
12 Catherine O'Neil, Legal Affairs Officer  
13 Gary Torticill, Assistant Director  
14 Deloris Williamson, Assistant Director  
15 Scott Greenberg, Business Administrator  
16 Kurt Regner, Examiner  
17 Department of Insurance  
18 2910 N. 44th Street, Suite 210  
19 Phoenix, AZ 85018

20 Office of Administrative Hearings  
21 1700 W. Washington, Suite 602  
22 Phoenix, AZ 85007

23 Thomas E. Haney  
101 N. First Avenue, Suite 2460  
Phoenix, AZ 85003



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**IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

In the Matter of the Merger of  
**PENNCO LIFE INSURANCE COMPANY**  
**(NAIC No. 920611),**

Insurer,

into

**FIRST UNION LIFE INSURANCE**  
**COMPANY (NAIC No. 72555),**

Petitioner.

No. 98A-196-INS

**RECOMMENDED DECISION**  
**OF ADMINISTRATIVE**  
**LAW JUDGE**

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**HEARING:** December 17, 1998

**APPEARANCES:** Thomas E. Haney, Esq. On behalf of the Petitioner

**ADMINISTRATIVE LAW JUDGE:** Lewis D. Kowal

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On December 17, 1998, a hearing was held to consider the Plan and Agreement of Merger whereby Pennco Life Insurance Company (the "Insurer"), will merge into First Union Life Insurance Company (the "Petitioner").

Based upon the entire record in this matter, the following Findings of Fact, Conclusions of Law and Recommended Order are made:

**FINDINGS OF FACT**

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1. Insurer is duly qualified and authorized as an insurer in the State of Arizona.
  2. Petitioner is duly qualified and authorized as an insurer in the State of Arizona.
  3. Both the Insurer and the Petitioner have waived notice requirements of A.R.S. §41-1092.05(D).
  4. The shareholder(s) of the Insurer and the shareholder(s) of the Petitioner have waived notice of the hearing.
  5. No evidence has been produced at the hearing of this matter that would indicate or form the basis for a finding that the Plan and Agreement of Merger

Office of Administrative Hearings  
1700 West Washington, Suite 602  
Phoenix, Arizona 85007  
(602) 542-9826

1 previously filed with the Department:

2 a. Is contrary to law.

3 b. Is unfair in the terms and conditions of the issuance and exchange of securities.

4 c. Would substantially reduce the security of and service to be rendered to  
5 policyholders of the Insurer in this State or elsewhere.

6 6. The Insurer has surrendered its certificate of authority to the Department.

7 7. Special notice to creditors and policyholders of the Petitioner, setting forth the  
8 date, place, nature and purpose of the hearing was published and mailed at least ten  
9 (10) business days before said hearing, and known creditors received individual notice  
10 by mail, as evidenced by an affidavit of publication.

11 8. Based upon the Department's review of Petitioner's filing, the Department  
12 recommended that the Director approve the Plan and Agreement of Merger filed in this  
13 matter.

14 9. The Petitioner has prepared Articles of Merger that it intends to file with the  
15 Arizona Corporation Commission.

16 10. The Petitioner has requested that the \$100,000.00 statutory deposit held by  
17 the State Treasurer in the name of the Insurer be refunded to the Insurer.

### 18 CONCLUSIONS OF LAW

19 The evidence of record established that Petitioner has complied with the  
20 provisions of A.R.S. §20-731 and established by credible evidence that the Plan and  
21 Agreement of Merger between the Insurer and Petitioner should be approved.

### 22 RECOMMENDED ORDER

23 The undersigned Administrative Law Judge recommends that:

24 1. The Petitioner may file its Articles of Merger with the Arizona Corporation  
25 Commission.

26 2. The Plan and Agreement of Merger between the Insurer and the Petitioner be  
27 released upon receipt by the Department of Insurance of the following approved .

28 3. The statutory deposit of the Insurer in the amount of \$100,000.00: (1) copies  
29 of the Articles of Merger of the Insurer and the Petitioner certified as having been filed  
30 with the Arizona Corporation Commission; and (2) a fully executed Form -E126 (Notice  
of Statutory Deposit). The statutory deposit cannot be released until the Department  
receives a fully executed copy of the official State Treasurer Release Receipt Form  
E101.

1 4. The sum of \$100.00 previously credited to the IERF be refunded to the  
2 Insurer pursuant to A.R.S. §20-159.

3 5. The Insurer shall file its 1998 Annual Statement with the Department,  
4 together with all applicable fees, unless the Insurer files its Articles of Merger with the  
5 Arizona Corporation Commission on or before December 31, 1998.

6 Done this day, December 18, 1998.

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8 Lewis D. Kowal  
9 Administrative Law Judge

10  
11 Original transmitted by mail this  
12 18 day of December, 1998, to:

13 Mr. Charles R. Cohen, Director  
14 Department of Insurance  
15 2910 North 44th Street, Ste. 210  
16 Phoenix, AZ 85018

17 Attention: Curvey Burton

18  
19  
20  
21 By

