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DEPT. OF INSURANCE
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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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In the Matter of:)	Docket No. 98A-048-INS
)	
BARTON FLOYD BAKER,)	ORDER
)	
Respondent.)	
_____)		

On July 21, 1998, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted Recommended Decision of Administrative Law Judge ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona 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. All insurance licenses issued by the Department to Barton Floyd Baker are
- revoked.


NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R20-6-114(B).

The final decision of the Director may be appealed to the Superior Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of

1 Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal,
2 pursuant to A.R.S. § 41-1092.10.

3 DATED this 24 of July, 1998

4
5 
6 John A. Greene
7 Director of Insurance

7 A copy of the foregoing mailed
8 this 24 day of July, 1998

9 Charles R. Cohen, Deputy Director
10 Gregory Y. Harris, Executive Assistant Director
11 John Gagne, Assistant Director
12 Catherine O'Neil, Assistant Director
13 Cheryl Cluen, Investigator
14 Maureen Catalioto, Supervisor
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2 Wilmington, Delaware 19809

3 American International South Insurance Company
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4 New York, NY 10038

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1 5. On September 4, 1996, Mr. Baker entered into a plea agreement in Case
2 No. CR96-09120, wherein he pleaded guilty to two counts of Theft, Class 5 Felonies, in
3 violation of A.R.S. §§13-1802, 13-1801, 13-701, 13-702, 13-702.01, 13-801 and 13-
4 804.

5 6. On October 15, 1996, the Maricopa County Superior Court entered
6 Judgment in Case No. CR96-09120, convicting Mr. Baker of two counts of Theft, Class
7 5 Felonies, in violation of A.R.S. §§ 13-1802, 13-1801, 13-701, 13-702, 13-702.01, 13-
8 801 and 13-804. The Court placed Mr. Baker on probation for a period of 3 years,
9 ordered him to pay restitution in the amount of \$8,329.50 and pay a fine in the amount
10 of \$25,000.00.

11 7. Mr. Baker paid the above-mentioned restitution and fine on October 15,
12 1996.

13 8. Prior to the above-mentioned activities underlying Case No. CR96-009120,
14 Mr. Baker had an unblemished career in the insurance industry. From 1964 through
15 1977, he was a trainee insurance agent for Commercial Union in Seattle, Washington.
16 In 1997, Mr. Baker was transferred to Phoenix, Arizona where he became a Claims
17 Manager. In 1980, he was promoted to the position of National Accounts Regional
18 Manager in Atlanta, Georgia. Mr. Baker left that position in 1981 to work for Ghay and
19 Taylor, an independent insurance agency. In 1982, Mr. Baker purchased files from that
20 agency and went into the insurance adjusting business under the name Baker,
21 Livermore & Quinn whose name was subsequently changed to be Baker Risk Services
22 upon Mr. Baker purchasing the business interests of Mr. Quinn. Aside from insurance
23 adjusting services, Baker Risk Services also acts as a third party workers'
24 compensation administrator.

25 9. Mr. Baker does not have any criminal history other than the above-
26 mentioned felony convictions.

27 10. During the hearing, Mr. Baker testified as to the general circumstances that
28 gave rise to Case No. CR96-009120. Although Mr. Baker would have this tribunal
29 believe that other individuals employed by Baker Risk Services were responsible for the
30 series of events underlying the above-mentioned criminal action, this tribunal is bound
by the Plea Agreement Mr. Baker entered into in that case wherein he admitted to the
criminal activity. The Plea Agreement is binding even if, as Mr. Baker asserts, there
was compelling personal and financial considerations as to why he entered into the
Plea Agreement.

1 11. It is interesting to note that during the hearing, Mr. Baker did not accept full
2 responsibility for the criminal activity underlying Case No. CR96-009120 and did not
3 express remorse over what had occurred.

4 12. While the evidence established that Mr. Baker has performed in excess of
5 the four hundred hours of community service required of him in Case No. CR96-09120,
6 Mr. Baker is still on probation until October, 1999.

7 13. Letters submitted by Mr. Baker to establish his good character were given
8 little weight for the reason that the individuals who authored those letters did not appear
9 at the hearing and were not subject to questioning by the Department as well as the
10 Administrative Law Judge.

11 14. During the hearing, Mr. Baker's counsel reargued the Motion to Dismiss on
12 the grounds that Mr. Baker's licenses had expired and not been renewed. The
13 Department asserted that due to the filing of the instant disciplinary action, Mr. Baker's
14 licenses had not expired and that the Department continued to have jurisdiction after
15 April 30, 1998, and relied on A.R.S. §20-316.01 for asserting jurisdiction in this matter.
16 The Administrative Law Judge denied the Motion and held to the ruling previously made
17 on that motion in an Order dated June 25, 1998.

CONCLUSIONS OF LAW

18 1. Based on the above Findings of Fact, Mr. Baker has a record of dishonesty
19 in business or financial matters in violation of A.R.S. § 20-316 (A) (1) together with
20 A.R.S. § 20-290 (B) (2).

21 2. Mr. Baker's conduct, as set forth above, constitutes the wilful violation of, or
22 noncompliance with, any provision of Arizona Revised Statutes, Title 20, within the
23 meaning of A.R.S. § 20-316 (A) (2).

24 3. Mr. Baker's conduct, as set forth above, constitutes the misappropriation or
25 conversion to his own use or illegal withholding of monies belonging to policyholders,
26 insurers or others and received in or during the conduct of business under his
27 insurance license or through its use, in violation of A.R.S. § 20-316(A) (4).

28 4. Mr. Baker has a record of conviction by final judgment of a felony involving
29 moral turpitude, in violation of A.R.S. § 20-316(A) (6).

30 5. Mr. Baker's conduct, as set forth above, constitutes a conduct of affairs
under his insurance license showing him to be incompetent or a source of injury and
loss to, or repeated complaint by, the public or any insurer, within the meaning of
A.R.S. § 20-316 (A) (7).

