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4 Phoenix, Arizona 85007-2997
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STATE OF ARIZONA
FILED

JUN 30 1998

DEPT. OF INSURANCE
BY Kate

7 STATE OF ARIZONA
8 DEPARTMENT OF INSURANCE

9 In the Matter of:) No. 98A-064-INS
10 DOYLENE BARNES, d.b.a.)
POORMAN'S INSURANCE,)
11 Respondent.)
12)
13)

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

13 On May 27, 1998, the Arizona Department of Insurance (the "Department") issued a Notice
14 of Hearing ("Notice") in this matter, a copy of which is attached and incorporated herein by this
15 reference. The Notice required Doylene Barnes d.b.a Poorman's Insurance ("Respondent") to provide
16 written answers to the allegations set forth in the Notice within twenty days of the issuance of the
17 Notice. As of this date, Respondent has failed to file an answer. On June 23, 1998, counsel for the
18 Department filed a Request for Default and proposed Findings of Fact, Conclusions of Law and Order.
19 As of this date, Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-
20 106(D), a party that fails to file an answer within the time provided shall be deemed to be in default
21 and one or more of the allegations in the Notice of Hearing may be deemed to be admitted.

22 FINDINGS OF FACT

- 23 1. Notice was proper.
24 2. Doylene Barnes d.b.a. Poorman's Insurance is in default.
25 3. The allegations in the Notice of Hearing are deemed admitted.
26

1 **CONCLUSIONS OF LAW**

2 1. The conduct alleged in the Notice of Hearing constitutes grounds for the Director to
3 suspend, revoke or refuse to renew Ms. Barnes' license to transact insurance in Arizona, within the
4 meaning of A.R.S. § 20-316(A).

5 2. The conduct alleged in the Notice constitutes grounds for the Director to impose a civil
6 penalty against Respondent pursuant to A.R.S. §§ 20-316(C) and 20-456(B).

7 3. The conduct alleged in the Notice constitutes grounds for the Director to order
8 Respondent to make restitution, pursuant to A.R.S. § 20-316(C).

9 **ORDER**

10 **IT IS ORDERED:**

11 1. All insurance licenses held by Doyleene Barnes are revoked effective upon the issuance
12 of this Order.

13 2. Respondent shall make restitution to Semsin Akkurt in the amount of One Thousand
14 Two Hundred Forty-Eight Dollars (\$1,248.00); Gabino Fernandez in the amount of Eleven Dollars
15 (\$11.00); and Yusuf Shabazz in the amount of Two Hundred Seventy Dollars (\$270.00).

16 3. Respondent shall pay a civil penalty in the amount of \$2,500.⁰⁰
17 to the Director payable upon entry of this Order for remission to the State Treasurer for deposit in the
18 State General Fund.

19 4. The hearing set for July 2, 1998 is vacated.

20
21 DATED this 29 day of June, 1998.

22
23 
24 _____
25 JOHN A. GREENE, Director
26 Arizona Department of Insurance

1 COPY of the foregoing mailed
this 30 day of June, 1998, to:


2 Robert I. Worth, Administrative Law Judge
3 Office of Administrative Hearings
4 1700 West Washington, Suite 602
Phoenix, Arizona 85007

5 Charles R. Cohen, Deputy Director
Gregory Y. Harris, Executive Assistant Director
6 Maureen Catalioto, Licensing Supervisor
John D. Gagne, Assistant Director
7 Robert Hill, Investigator
Arizona Department of Insurance
8 2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

9 Shelby L. Cuevas
10 Assistant Attorney General
Consumer Protection & Advocacy Section
11 1275 West Washington

12 Doyleene Barnes
318 East Elm
13 Phoenix, Arizona 85012

14 Office of Administrative Hearings
1700 West Washington, Suite 602
15 Phoenix, Arizona 85007

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Consumer Protection &
Advocacy Section

STATE OF ARIZONA
FILED

MAY 27 1998

MAY 27 1998

RECEIVED

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY [Signature]

In the Matter of:

**DOYLENE BARNES, d.b.a.
POORMAN'S INSURANCE,**

Respondent.

No. 98A-064-INS

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 and 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 (the "Director"), or his duly designated representative, on the 2nd day of July, 1998, at 9:00 o'clock a.m., at the Office of Administrative Hearings, 1700 West Washington Street, Capitol Tower, West Wing, Suite 602, Phoenix, Arizona (the "Hearing").

Motions to continue this matter shall be made in writing to the Administrative Law Judge not less than five (5) business 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 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 Respondent is 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

1 shall pay the cost of the transcript to the court reporter or other transcriber.

2 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
3 Attorney General Shelby L. Cuevas (602) 542-7725, 1275 West Washington, Phoenix, Arizona 85007.

4 NOTICE OF APPLICABLE RULES

5 On January 23, 1992, the Arizona Department of Insurance adopted A.A.C. R20-6-101 through
6 R20-6-115, setting forth the rules of practice and procedure applicable in contested cases before the
7 Director of Insurance. The hearing will be conducted pursuant to these rules.

8 PURSUANT TO A.A.C. R20-6-106 RESPONDENT SHALL FILE A WRITTEN ANSWER
9 WITH THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN TWENTY (20) DAYS AFTER
10 ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL OR DELIVER A COPY OF
11 THE ANSWER TO THE ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE
12 ANSWER SHALL STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL
13 SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY
14 ASSERTION NOT DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT
15 RAISED IN THE ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY
16 FILED, THE RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY
17 DEEM THE ALLEGATIONS ARE TRUE AND TAKE WHATEVER ACTION IS APPROPRIATE,
18 INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR RENEWAL OF A
19 LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR RESTITUTION TO ANY PARTY
20 INJURED.

21 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE ACCOMMODATIONS
22 SUCH AS INTERPRETERS, ALTERNATIVE FORMAT, OR ASSISTANCE WITH PHYSICAL
23 ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS MUST BE MADE WITH 72 HOURS
24 PRIOR NOTICE. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE OFFICE
25 OF ADMINISTRATIVE HEARINGS AT (602) 542-0887.

26 The allegations supporting this Notice of Hearing are as follows:

1 that it had been assigned to another policyholder, involving neither Barnes nor Lynch.

2 20. Barnes has since admitted to the Department that she had no authority to bind Biltmore,
3 and that she never submitted L & L Hauling's application or premium to any insurer.

4 21. On or about October 2, 1996, Barnes returned L & L Hauling's \$200.00 premium.

5 22. From February through August, L & L Hauling had no general liability insurance
6 coverage due to Barnes' actions.

7 **COUNT IV**

8 23. On or about June 30, 1997, Gabino Fernandez ("Fernandez") contacted Barnes to write
9 an insurance policy for his Trike. Barnes accepted an application and \$144.00 in cash as premium
10 from Fernandez to purchase a policy of liability insurance coverage for Fernandez's Trike.

11 24. At that same time, Barnes issued Fernandez an Arizona insurance ID card to Fernandez
12 stating the insurer on the policy was Progressive Insurance effective June 30, 1997, Policy No. MC63
13 902, and a computer printout indicating the total premium for coverages and an undated receipt for
14 \$144.

15 25. Upon learning that he did not have insurance with Progressive, Fernandez contacted
16 Barnes. Barnes then assured Fernandez she would take care of the problem.

17 26. Subsequently, Barnes issued Fernandez an Arizona insurance ID card reflecting
18 coverage through Viking Insurance, Policy No. 03 00269560, and representing coverage effective from
19 August 22, 1997 through February 22, 1998.

20 27. On September 16, 1997, Barnes refunded \$133 of Fernandez's premium. In a letter
21 from Barnes to Fernandez, dated September 16, 1997, Barnes states she was unable to procure
22 insurance through Viking for him and that she is refunding his premium in full. Barnes failed to
23 refund Fernandez his entire \$144 premium.

24 28. On September 30, 1997, the Department received a letter of complaint from Fernandez
25 against Barnes regarding the insurance coverage on his 1977 Trike.

26 29. On December 3, 1997, the Department received a letter from Progressive, in which

1 Progressive states it has no record of insurance coverage on Fernandez.

2 30. On December 4, 1997, the Department received a letter from Viking/Guaranty National
3 Companies, dated December 3, 1997, in which Viking states they have no record of an application or
4 payment in the name of Gabino Fernandez.

5 31. From June through September, Fernandez had no liability insurance coverage on his
6 1977 Trike due to Barnes' actions.

7 **COUNT V**

8 32. On November 17, 1997, the Department received a letter of complaint from Yusuf H.
9 Shabazz ("Shabazz") against Barnes/Poorman's.

10 33. Shabazz purchased insurance coverage for his 1972 Winnebago motor home from
11 Barnes. Shabazz paid Barnes \$270 cash for liability coverage and received from Barnes an Arizona
12 insurance ID card through Progressive, Policy No. 05633901, effective July 1, 1997, expiring July 1,
13 1998.

14 34. On October 31, 1997, Shabazz backed his motor home into a vehicle behind him and
15 damaged the grill on the vehicle. Shabazz gave Barnes the accident information and Barnes said she
16 would take care of contacting the other vehicle owner's insurance company. Barnes failed to contact
17 either the insurance company or the owner of the damaged vehicle. After numerous attempts, Shabazz
18 has been unsuccessful in contacting Barnes.

19 35. On December 11, 1997, the Department received a letter from Progressive, stating that
20 Progressive has no record of a policy for Yusuf Shabazz. In the letter, Progressive restates that Barnes
21 is a Progressive agent through Poorman's and that effective August 11, 1997, the agency is restricted
22 to writing renewal business only.

23 36. From July through November Shabazz had no insurance coverage on his 1972
24 Winnebago motor home due to Barnes' actions.

25 **COUNT VI**

26 37. On or about January 9, 1998, the Director issued to Barnes a Subpoena Duces Tecum

1 to appear and produce her files relating to Hassan Algaraawi. The Subpoena Duces Tecum were
2 served by certified mail, return receipt requested to her address of record with the Department. The
3 return receipt was returned to the Department evidencing receipt by Barnes.

4 38. Barnes failed to appear at the Department as ordered and subpoenaed.

5 VIOLATIONS

6 1. Barnes' conduct alleged above constitutes a record of dishonesty in business or
7 financial matters in violation of A.R.S. § 20-316(A)(1) together with A.R.S. § 20-290(B)(2).

8 2. Barnes' conduct alleged above constitutes the wilful violation of, or wilful
9 noncompliance with, any provision of this title, or any lawful rule, regulation or order of the director
10 in violation of A.R.S. § 20-316(A)(2).

11 3. Barnes' conduct alleged above constitutes misappropriation or conversion to her own
12 use or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others and
13 received in or during the conduct of business under the license or through its use, in violation of
14 A.R.S. § 20-316(A)(4).

15 4. Barnes' conduct alleged above constitutes a conduct of affairs under the license
16 showing the licensee to be incompetent or a source of injury and loss to, or repeated complaint by, the
17 public or any insurer within the meaning of A.R.S. § 20-316(A)(7).

18 5. Barnes made statements misrepresenting the terms of any policy issued or to be issued,
19 within the meaning of A.R.S. § 20-443(1).

20 6. Barnes' conduct as alleged above constitutes the fraudulent preparation and
21 presentation of an application for issuance and of a claim for payments pursuant to an insurance
22 policy, within the meaning of A.R.S. § 20-463(A)(1)(a) and (c).

23 7. Barnes' conduct as alleged above constitutes the diversion of the monies of an insurer
24 or other person, within the meaning of A.R.S. § 20-463(A)(4)(a) and (b).

25 8. Grounds exist for the Director to suspend, revoke or refuse to renew Ms. Barnes'
26 insurance license, impose a civil penalty upon her, and/or order restitution, pursuant to A.R.S. §§ 20-

1 290(B), 20-316(A) and (C).

2 9. Grounds exist for the Director to order Barnes to cease and desist from violating
3 A.R.S. § 20-443, and impose a civil penalty upon Respondents pursuant to A.R.S. § 20-456.


4 WHEREFORE, if after hearing, the Director makes a finding of one or more of the above-
5 described allegations the Director may suspend, revoke or refuse to renew Respondent's insurance
6 license, impose a civil penalty and order restitution, pursuant to A.R.S. §§ 20-316(A) and 20-316(C).

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

14 Pursuant to Arizona Revised Statute § 41-1092.01, your hearing will be conducted through the
15 Office of Administrative Hearings, an independent agency. Please find enclosed a copy of the
16 procedures to be followed.

17 DATED in Phoenix, Arizona this 26 day of May, 1998.

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JOHN A. GREENE, Director
Arizona Department of Insurance

1 COPY of the foregoing mailed this
2 27th day of May, 1998, to:

3 Robert I. Worth, Administrative Law Judge
4 Office of Administrative Hearings
5 1700 West Washington
6 Phoenix, Arizona 85007

7 Shelby L. Cuevas
8 Assistant Attorney General
9 1275 West Washington, Room 259
10 Phoenix, Arizona 85007

11 Charles R. Cohen, Deputy Director
12 Gregory Y. Harris, Executive Assistant Director
13 John Gagne, Assistant Director
14 Bob Hill, Investigator
15 Maureen Catalioto, Supervisor
16 Department of Insurance
17 2910 North 44th Street, Suite 210
18 Phoenix, Arizona 85018

19 Doyleene Barnes
20 318 E. Elm
21 Phoenix, Arizona 85012

22 Poorman's Insurance
23 Doyleene Barnes
24 444 W. Camelback, Suite #102
25 Phoenix, Arizona 85013

26 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 hearings 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) 542-7719.

Clarendon National Insurance Company
1177 Avenue of the Americas
New York, NY 10036

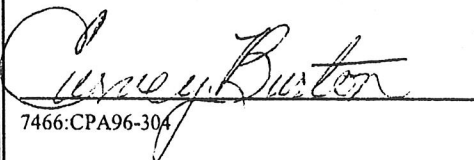
Insurance Company of the West
P.O. Box 85563
San Diego, CA 92138-5563

Scottsdale Insurance Company
P.O. Box 4110
Scottsdale, AZ 85261

1 USA Property & Casualty Insurance Company
P.O. Box 650459
2 Miami, FL 33265-0459

3 Victoria Fire & Casualty Company
5915 Landerbrook Drive
4 Suite 210
Cleveland, OH 44124-4058

5
6 Viking Insurance Company of Wisconsin
P.O. Box 5365
Madison, WI 53705-0365

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