

STATE OF ARIZONA
FILED

MAR 9 1998

DEPT. OF INSURANCE
BY ED

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3 Consumer Protection & Advocacy Section
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4 Phoenix, Arizona 85007-2997
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MAR 09 1998

LICENSING SECTION

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

9	In the Matter of:)	No. 98A-011-INS
)	
10	EDWARD T. BAEZA d.b.a. ARIZONA)	
	INSURANCE PROFESSIONALS)	FINDINGS OF FACT, CONCLUSIONS
11	AGENCY,)	OF LAW AND ORDER
)	
12	Respondent.)	
)	

13
14 On January 30, 1998, the Arizona Department of Insurance (the "Department") issued a Notice
15 of Hearing ("Notice") in this matter, a copy of which is attached and incorporated herein by this
16 reference. The Notice required Edward T. Baeza d.b.a. Arizona Insurance Professionals Agency
17 ("Respondent") to provide written answers to the allegations set forth in the Notice within twenty days
18 of the issuance of the Notice. As of this date, Respondent has failed to file an answer. On March 3,
19 1998, counsel for the Department filed a Request for Default and proposed Findings of Fact,
20 Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's
21 request. Pursuant to A.A.C. R20-6-106(D), a party that fails to file an answer within the time provided
22 shall be deemed to be in default and one or more of the allegations in the Notice of Hearing may be
23 deemed to be admitted.

24 **FINDINGS OF FACT**

- 25 1. Notice was proper.
- 26 2. Edward T. Baeza d.b.a. Arizona Insurance Professionals Agency is in default.

1 COPY of the foregoing mailed this
2 9th day of March, 1998, to:

3 The Honorable Lewis D. Kowal
4 Administrative Law Judge
5 Office of Administrative Hearings
6 1700 West Washington, Suite 602
7 Phoenix, Arizona 85007

8 Charles R. Cohen, Deputy Director
9 Gregory Y. Harris, Executive Assistant Director
10 John Gagne, Assistant Director
11 **Maureen Catalioto**, Licensing Supervisor
12 Arizona Department of Insurance
13 2910 North 44th Street, Suite 210
14 Phoenix, Arizona 85018

15 Mario Guevara
16 Office of Administrative Hearings
17 1700 West Washington, Suite 602
18 Phoenix, Arizona 85007

19 Edward T. Baeza
20 201 North Jacs Place
21 Tucson, Arizona 85748

22 Edward T. Baeza
23 Arizona Insurance Professionals Agency
24 P.O. Box 40308
25 Tucson, Arizona 85717

26 Jaburg & Wilk, P.C.
3200 North Central, 20th Floor
Phoenix, Arizona 85012-2415

Shelby L. Cuevas
Assistant Attorney General
Consumer Protection and Advocacy Section
1275 West Washington
Phoenix, Arizona 85007

Allan Rosenblum
Arizona Premium Finance Company, Inc.
P.O. Box 30190
Phoenix, Arizona 85046-0190

Insurance Company of the West
P.O. Box 85563
San Diego, California 92186

1 Infinity Insurance Company
2204 Lakeshore Drive
2 P.O. Box 830189
Birmingham, Alabama 35283

3
4 Leader National Insurance Company
4100 Harry Hines Boulevard
Dallas, Texas 75219

5
6 Foremost Insurance Company of Grand Rapids, Michigan
P.O. Box 2450
Grand Rapids, Michigan 49501

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Esther Lewis

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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY

In the of:)
))
EDWARD T. BAEZA dba ARIZONA)
INSURANCE PROFESSIONALS AGENCY)
))
))
))
Respondent.)
_____)

Docket No. 98A-011-INS

NOTICE OF HEARING

PLEASE TAKE NOTICE, that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§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 11th day of March, 1998, at nine o'clock a.m., at the Office of Administrative Hearings, 1700 West Washington, 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.

1 If Respondent is represented by counsel, the attorney shall be licensed to practice law in the State
2 of Arizona or, if Respondent is an insurer, it may be represented by a corporate officer, pursuant to
3 A.R.S. §20-161(B).

4 Pursuant to A.R.S. §41-1092.07(D), a clear and accurate record of the proceedings will be made
5 by a court reporter or by electronic means. Any party that requests a transcript of the proceedings shall
6 pay the cost of the transcript to the court reporter or other transcriber.

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

9 NOTICE OF APPLICABLE RULES

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

13 PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN ANSWER
14 WITH THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN TWENTY (20) DAYS AFTER
15 ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL OR DELIVER A COPY OF THE
16 ANSWER TO THE ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER
17 SHALL STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT
18 OR DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED
19 SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER
20 SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, THE RESPONDENT
21 SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS
22 ARE TRUE AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING SUSPENSION,
23

1 REVOCATION, DENIAL OF A LICENSE, RENEWAL OF A LICENSE, IMPOSITION OF A CIVIL
2 PENALTY AND/OR RESTITUTION TO ANY PARTY INJURED.

3 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE ACCOMMODATIONS
4 SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR ASSISTANCE WITH PHYSICAL
5 ACCESSIBILITY, BY CONTACTING THE OFFICE OF ADMINISTRATIVE HEARINGS AT (602)
6 542-9825. REQUESTS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO
7 ARRANGE THE ACCOMMODATION.

8 The Department alleges as follows:

9 1. Respondent is, and was at all material times, licensed in Arizona to transact property and
10 casualty insurance business as an agent and broker, Arizona license number 3105, which licenses expire
11 January 31, 1998.

12 2. Between October 4, 1996, and November 15, 1996, Respondent sold 62 automobile
13 insurance policies financed by Arizona Premium Finance Company, Inc. ("APFC"). These transactions
14 are governed by the APFC "Instructions and Rate Book" provided to Respondent.

15 3. Respondent's transactions with APFC typically occurred as follows: Respondent
16 collected a down payment from the insured, generally equaling 20% of the total premium, and APFC
17 agreed to finance the balance. Respondent then issued its funding draft as payment to the insurance
18 company. If Respondent issued the funding draft for more than the amount of premium financed,
19 Respondent had to remit to APFC the down payment collected or the difference between the draft
20 amount and the amount financed.

1 4. Respondent's practice was to write the funding draft for the full amount of the premium.
2 Respondent was then obligated to remit to APFC the amount of the down payment collected from the
3 insured, as indicated on the premium finance agreement.

4 5. On October 10, 1996, Respondent issued to APFC check number 1299 in the amount of
5 \$1406.00. On November 25, 1996, Respondent issued to APFC check number 1391 in the amount of
6 \$9146.00. The checks represented Respondent's required down payment remittance to APFC. Both
7 checks were drawn on the Arizona Insurance Professionals account. The name Scott Toney also appears
8 as an accountholder on the checks. Mr. Toney is Respondent's business partner and is not a licensed
9 insurance agent.

10 6. Respondent's two checks totaling \$10,552.00 were both returned by Bank of America as
11 unpaid due to insufficient funds. APFC made numerous demands upon Respondent for payment and
12 Respondent has not yet remitted the money collected from the insureds.

13 7. APFC sought and obtained a judgment against Respondent and Mr. Toney in Northeast
14 Phoenix Justice Court on the \$1406.00 returned check. On June 13, 1997, the court entered judgment in
15 the amount of \$2812.00, plus \$39.50 in fees, costs and accruing costs. APFC has been unable to collect
16 its judgment.

17 8. Respondent's conduct alleged above constitutes the willful violation of or noncompliance
18 with any provision of Title 20, within the meaning of A.R.S. §20-316(A)(2).

19 9. Respondent's conduct alleged above constitutes misappropriation or conversion to his
20 own use or illegal withholding of monies belonging to insurers and others and received in or during the
21 conduct of business under the license or through its use within the meaning of A.R.S. §20-316(A)(4).

1 10. Respondent's conduct alleged above constitutes a conduct of affairs under the license
2 showing the licensee to be incompetent or a source of injury and loss to the public or any insurer within
3 the meaning of A.R.S. §20-316(A)(7).

4 11. Respondent's conduct alleged above constitutes fraud by diverting, or attempting or
5 conspiring to divert the monies of an insurer in connection with the transaction of insurance within the
6 meaning of A.R.S. §20-463(A)(4)(a) and (b).

7 12. Grounds exist for the Director to suspend, revoke, or refuse to renew Respondent's
8 insurance licenses, impose a civil penalty upon Respondent, and/or order restitution, pursuant to A.R.S.
9 §§20-316(A), 20-316(C).


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

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

20 Pursuant to A.R.S. §41-1092.01, your hearing will be conducted through the Office of
21
22
23

1 Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to be
2 followed.

3 DATED this 29 day of January, 1998.

4
5 

6 JOHN A. GREENE
7 Director of Insurance

8
9 Copies of the foregoing mailed
10 this 30th day of January, 1998, to:

11 Edward T. Baeza
12 201 N. Jacs Place
13 Tucson AZ 85748

14 Edward T. Baeza dba
15 Arizona Insurance Professionals Agency
16 P.O. Box 40308
17 Tucson, AZ 85717

18 Jaburg & Wilk, P.C.
19 3200 N. Central, 20th Floor
20 Phoenix, AZ 85012-2415

21 Insurance Company of the West
22 P.O. Box 85563
23 San Diego, CA 92186

Infinity Insurance Company
2204 Lakeshore Drive
P.O. Box 830189
Birmingham, AL 35283

Leader National Insurance Company
4100 Harry Hines Boulevard
Dallas, TX 75219

1 Foremost Insurance Company
of Grand Rapids, Michigan
2 P.O. Box 2450
Grand Rapids, MI 49501

3 Charles R. Cohen, Deputy Director
4 John D. Gagne, Assistant Director
Maureen Catalioto, Licensing Supervisor
5 Arizona Department of Insurance
2910 N. 44th Street, Suite 210
6 Phoenix, AZ 85018

7 Shelby L. Cuevas
Assistant Attorney General
8 1275 West Washington
Phoenix, AZ 85007

9 Lewis D. Kowal
10 Administrative Law Judge
Office of Administrative Hearings
11 1700 West Washington, Suite 602
Capitol Tower, West Wing
12 Phoenix, AZ 85007

13 
14 Curvey Walters Burton