

1 and casualty insurance agent in the State of Arizona. Mr.
2 Gelwix' license, number 0715409, shall expire on June 30,
3 1994. Gelwix was at all material times the executive vice
4 president of Pacific Insurance and the individual licensed to
5 represent the agency.

6 COUNT ONE

7 3. PIA Arizona, Inc. d/b/a Pacific Insurance Agency
8 ("PIA Arizona") was an Arizona domiciled agency and maintained
9 a property and casualty license from April 21, 1986 until
10 August 31, 1990 and a disability and life insurance license
11 from April 21, 1986 until August 31, 1991 (license number
12 196609).

13 4. At all material times in 1990, Pacific Insurance
14 Agency maintained a corporate address of 3635 Ruffin Road, San
15 Diego, California 92123. Pacific Insurance Agency's officers
16 were Glen Dethloff (president) and Max Gelwix (vice president,
17 secretary and treasurer).

18 5. At all material times in 1990, PIA Arizona's
19 corporate address was the same as the address of Pacific
20 Insurance Agency, 3635 Ruffin Road, San Diego, California
21 92123. PIA Arizona's only shareholders were Dethloff and
22 Gelwix. The officers of the corporation were George Friehe
23 (president), Dethloff (vice president) and Gelwix
24 (secretary-treasurer). These three men were also the directors
25 of the corporation. Friehe and Gelwix signed PIA Arizona's
26 Annual Report and Certificate of Disclosure to the Arizona
Corporation Commission for the year ending 6/30/90 on August

1 14, 1990, as the President and Secretary-Treasurer,
2 respectively. The report was filed on August 20, 1990.

3 6. At all material times in 1990, Gelwix and
4 Dethloff were the only shareholders of PIA Arizona and were
5 officers and directors of both Pacific Insurance Agency and PIA
6 Arizona. In the documents filed with the Corporation
7 Commission, PIA Arizona was referred to as the "Phoenix branch
8 of Pacific Insurance Agency".

9 7. On or about June 25, 1990, an invoice from
10 Pacific Insurance Agency for a final audit premium in the
11 amount of \$5,416.00 was sent to American Grading, Inc.
12 ("American Grading"). American Grading was an insured of Royal
13 Insurance Company of America ("Royal Insurance"). The invoice
14 identified the billing agent as Pacific Insurance Agency, P.O.
15 Box 7807, Phoenix, Arizona 85011. The invoice also indicated
16 that the agency had been established in 1928 with its corporate
17 headquarters in San Diego, California, and regional branches in
18 Irvine, California; North County, California and Phoenix,
19 Arizona.

20 8. On or about July 17, 1990, American Grading
21 issued its Citibank check, number 002984, in the amount of
22 \$5,416.00 payable to "Pacific Insurance Agency, P.O. Box 7807,
23 Phoenix, Arizona 85011," in payment of the audit premium.

24 9. On or about August 17, 1990, Pacific Insurance
25 Agency deposited American Grading's check number 002984 into
26 Torrey Pines Bank, La Jolla, California, checking account

1 number 0721-013852. The account was entitled "Pacific
2 Insurance Agency, Phoenix Trust Account, P.O. Box 20160-X, San
3 Diego, California 92120." Pacific Insurance Agency never
4 forwarded American Grading's premium payment to Royal Insurance.

5 COUNT TWO

6 10. On or about November 29, 1990, Gelwix sent a
7 letter to the Department advising that PIA Arizona ceased doing
8 business on 6/30/90 because Frieh and Company assumed control
9 of its "book of business". Gelwix enclosed a copy of a
10 Memorandum of Agreement, dated 7/2/90, purported to be the
11 agreement whereby PIA Arizona transferred all its assets to
12 Frieh and Company.

13 11. The 7/2/90 Memorandum of Agreement was orally
14 rescinded by Frieh on or about September 1990. The Memorandum
15 of Agreement was replaced by an agreement executed on June 19,
16 1991, by Gelwix on behalf of PIA Arizona. The June 1991
17 Agreement was affirmed by Gelwix in a June 25, 1991, letter to
18 George Frieh. Gelwix signed this letter as the executive vice
19 president of Pacific Insurance Agency, P.O. Box 609006, San
20 Diego, California 92160.

21 COUNT THREE

22 12. On February 10, 1992, Royal Insurance contacted
23 the Department requesting assistance in obtaining reimbursement
24 of the \$5,416.00 from Pacific Insurance Agency. In its letter
25 to the Department, Royal Insurance indicated that Pacific
26 Insurance Agency refused to remit any money alleging that, at

1 one time, Pacific Insurance Agency contemplated purchasing
2 certain assets of PIA Arizona. The February 10, 1992, letter
3 indicated that the negotiations between the two entities fell
4 through and the money was never forwarded to Royal Insurance.

5 13. The Department commenced its investigation with
6 inquiries to Pacific Insurance Agency. In response to the
7 inquiries, Gelwix, on behalf of Pacific Insurance Agency, sent
8 two letters to the Department on February 28, 1992 and May 8,
9 1992.

10 14. In his February 28, 1992, letter, Gelwix attached
11 the 7/2/90 Memorandum of Agreement and represented to the
12 Department that the agreement evidenced a change in ownership
13 of PIA Arizona.

14 COUNT FOUR

15 15. Gelwix' May 8, 1992, letter indicates that he
16 reviewed the transaction involving American Grading's premium
17 payment to Pacific Insurance Agency. In this letter, he stated
18 that "no money was collected from the insured by Pacific
19 Insurance Agency." Gelwix signed his letter as the executive
20 vice president of Pacific Insurance Agency, P.O. Box 609006,
21 San Diego, California 92160.

22 16. On January 27, 1993, Respondents Max Gelwix and
23 Pacific Insurance Agency submitted a check to the Department
24 paid to the order of Royal Insurance the \$5,415.00 which is the
25 subject of this matter.
26

1 to Gelwix, the individual designated in the license to exercise
2 Pacific Insurance Agency's powers pursuant to A.R.S.
3 § 20-316(B).

4 COUNT THREE

5 8. Gelwix' February 28, 1992, letter in which he
6 attached the 7/2/90 Memorandum of Agreement constitutes a
7 violation of A.R.S. § 20-316(A)(7).

8 9. Gelwix' characterization of the 6/30/90
9 Memorandum of Agreement constitutes a violation of A.R.S.
10 § 20-316(A)(7).

11 10. The license of Pacific Insurance Agency may be
12 suspended, revoked or refused for any of such causes relating
13 to the conduct of Gelwix described in paragraphs 8 and 9 above
14 pursuant to A.R.S. § 20-316(B).

15 COUNT FOUR

16 11. Gelwix' May 8, 1992, letter stating "no money was
17 collected from the insured by Pacific Insurance Agency" is
18 directly contrary to the fact that Pacific Insurance Agency
19 deposited American Grading's premium payment into its account
20 in California. Gelwix 's May 8, 1992, letter constitutes a
21 violation of or non-compliance with Title 20 within the meaning
22 of A.R.S. § 20-316(A)(2).

23 12. The license of Pacific Insurance Agency may be
24 suspended, revoked or refused for any such causes as they
25 relate to the actions of Gelwix as described above in paragraph
26 11 pursuant to A.R.S. § 20-316(B).

1 5. The undersigned waives all rights to challenge
2 such Findings of Fact, Conclusions of Law and Order on appeal
3 or otherwise, and agrees to be bound by the foregoing Order.


4
5 11/9/93
6 Date



MAX DRISKILL GELWIX, Respondent

PACIFIC INSURANCE AGENCY

7
8
9 11/9/93
10 Date

By: 

MAX DRISKILL GELWIX
Executive Vice President

11 COPY of the foregoing
12 mailed this 13th day
13 of December,
14 1993, to:

15 Felecia A. Rotellini
16 Assistant Attorney General
17 Consumer Protection & Antitrust
18 Section
19 1275 West Washington
20 Phoenix, Arizona 85007

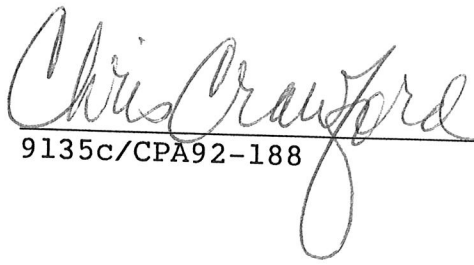
21 Katrina Rogers, Acting Deputy Director
22 Jay Rubin, Assistant Director
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