



1 with the appropriate forms and instructions. Ms. Alvarez never  
2 received that notice and the return receipt indicates that the  
3 letter was returned to the Department "delivery attempted, not  
4 known." The letter was mailed to 2133 North Grand Avenue #73,  
5 Nogales, AZ 85621.

6 4. Ms. Alvarez credibly testified that for the 1992  
7 calendar year she did not have any sales associated with her  
8 surplus line broker's license. The Department did not contest  
9 this fact.

10 5. On April 29, 1994, the Department sent Ms. Alvarez  
11 a notice of delinquency for the 1993 Surplus Line Broker Annual  
12 Statement and Premium Tax Report. That letter was mailed to 2150  
13 North Isabell Blvd., Tucson, AZ 85712.

14 6. On May 4, 1994, the Department sent Ms. Alvarez  
15 via certified mail a notice of delinquency for the 1993 Surplus  
16 Line Broker Annual Statement and Premium Tax Report. Ms. Alvarez  
17 did not receive that notice and the return receipt indicates that  
18 the letter was returned to the Department "delivery attempted,  
19 not known." The letter was mailed to 2133 North Grand Ave. #73,  
20 Nogales, AZ 85621.

21 7. On July 20, 1994, Brian Stephan, Tax Unit  
22 Supervisor for the Department, sent Ms. Alvarez a letter via  
23 certified mail notifying her of her failure to file the Annual  
24 Statement and Premium Tax Reports for the calendar years 1992 and  
25 1993. Ms. Alvarez received that letter and signed a receipt  
26 indicating delivery on July 25, 1994.

27 8. On August 2, 1994, Ms. Alvarez sent the Department  
28 a Premium Tax Report for 1993 and a check in the amount of

1 \$769.18 based on a 3.2% tax rate. The correct premium tax rate  
2 as indicated on the Premium Tax Report form is 3%.

3 9. On February 13, 1995, Mr. Stephan wrote to Ms.  
4 Alvarez returning the \$769.18 check on the basis that the check  
5 had been misplaced and become stale. Mr. Stephan requested that  
6 Ms. Alvarez forward a replacement check to the Department and  
7 informed Ms. Alvarez that the premium tax rate was 3% not 3.2%.

8 10. On May 17, 1995, the Department sent Ms. Alvarez  
9 via certified mail a notice of delinquency for the 1994 Surplus  
10 Line Broker Annual Statement and Tax Report.

11 11. In October 1995, Ms. Alvarez filed the 1992  
12 Surplus Line Broker Annual Statement and Premium Tax Report with  
13 the Department.

14 12. On behalf of the Department, Mr. Stephan sent Ms.  
15 Alvarez a letter dated October 24, 1995, informing her that the  
16 filings she made for 1992 and 1994 did not include the first page  
17 of the report. Mr. Stephan enclosed those forms with his October  
18 24, 1995 letter to Ms. Alvarez.

19 13. On October 23, 1995, Ms. Alvarez sent the  
20 Department a replacement check for \$769.18 for the 1993 tax year.

21 14. On October 30, 1995, Ms. Alvarez mailed the  
22 completed 1992 and 1994 forms to Mr. Stephan.

23 15. On November 1, 1995, Ms. Alvarez filed her 1994  
24 Surplus Line Broker Annual Statement and Premium Tax Report with  
25 the Department and provided the Department with a check dated  
26 October 23, 1995, in the amount of \$1,084.18 for the 1994 premium  
27 taxes owed based on a 3.2% tax rate. The corrent premium tax  
28 rate as indicated on the Premium Tax Report is 3%.



1 authority to impose civil penalties for delinquent payment of  
2 premium taxes.

3 ORDER

4 IT IS ORDERED that within 60 days of this Order:

5 1. Ruth Ann Alvarez pay to the Department civil  
6 penalties totaling \$4,625.00, computed as follows:

7 a) \$50.00 civil penalty for the delinquent filing  
8 of the Surplus Line Broker Annual Statement and Premium Tax  
9 Report for the 1992 calendar year;

10 b) \$100.00 civil penalty for the delinquent  
11 filing of the Surplus Line Broker Annual Statement and Premium  
12 Tax Report for the 1993 calendar year;

13 c) \$1,995.00 civil penalty for late payment of  
14 the 1993 premium taxes (computed at a rate of \$5.00 per day for  
15 399 days);

16 d) \$150.00 civil penalty for the delinquent  
17 filing of the Surplus Line Broker Annual Statement and Premium  
18 Tax Report for the 1994 calendar year; and

19 e) \$2,330.00 civil penalty for late payment of  
20 the 1994 premium taxes (computed at a rate of \$10.00 per day for  
21 233 days).

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2. The Department shall credit Ms. Alvarez with the amount of her overpayment of premium taxes for the calendar years 1993 and 1994 and offset that amount from the \$4,625.00 civil penalty imposed by this Order.

DATED this 10th day of January, 1996.

*Chris Herstam*  
CHRIS HERSTAM  
Director of Insurance

*Lewis D. Kowal*  
LEWIS D. KOWAL  
Administrative Law Judge

NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Administrative Law Division 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.

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1 COPY of the foregoing mailed/delivered  
2 this 10th day of January, 1996, to:

3 Charles R. Cohen, Deputy Director  
4 Gregory Y. Harris, Executive Assistant Director  
5 Catherine O'Neil, Assistant Director  
6 Gary Torticill, Assistant Director  
7 Scott Greenberg, Business Manager  
8 Maureen Catalioto, Licensing Supervisor  
9 Barbara Lewis, Compliance Section Manager  
10 Brian Stephan, Tax Unit Supervisor  
11 Department of Insurance  
12 2910 N. 44th Street, Suite 210  
13 Phoenix, Arizona 85018

14 Patrick Irvine  
15 Assistant Attorney General  
16 1275 W. Washington  
17 Phoenix, Arizona 85007

18 Ruth Anne Alvarez  
19 2133 N. Grand Ave., #73  
20 Nogales, AZ 85621

21 John Rohwer, Manager  
22 The Surplus Lines Assn. of Arizona  
23 4041 N. Central Ave., #515  
24 Phoenix, AZ 85012

25   
26 Chris Crawford

27  
28