

MAY 21 1997

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Kathy

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In the Matter of)
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 BILLY BURDETTE BRETTEING)
)
 License No. 537906)
)
 Respondent.)
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Docket No. 97A-080-INS

CONSENT ORDER

The Arizona Department of Insurance, ("Department"), has received evidence that Billy Burdette Bretting, ("Respondent"), violated the provisions of Title 20. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent, at all material times, held an Arizona license to transact property and casualty business as both an agent and broker, and life and disability business as an agent, license number 537906. The property and casualty portion of the license held by Respondent expires effective June 30, 1997.

2. AZ-A-Help Insurance agency is an assumed business name used by Respondent and previously filed with the Department. On or about July 15, 1996, Respondent sold the assets of AZ-A-Help to Bergman & Associates.

Count 1

3. On or about March 22, 1996, Respondent received an application from Thomas Kubly ("Mr. Kubly") for motor vehicle insurance through Victoria Fire & Casualty Company

1 (“Victoria”).

2 4. In conjunction with Mr. Kubly’s insurance application, Respondent received payment from
3 Mr. Kubly in the amount of \$908, intended as Mr. Kubly’s full six-month policy premium.

4 5. Respondent issued an insurance identification card indicating coverage through Victoria to
5 Mr. Kubly, for the period March 22, 1996 to September 22, 1996.

6 6. Respondent failed to forward Mr. Kubly’s application and premium to Victoria.

7 7. Subsequently, upon receiving proof that Mr. Kubly had completed an application and paid
8 the policy premium to Respondent, Victoria issued Mr. Kubly a back-dated motor vehicle policy
9 with effective dates of March 22, 1996 through September 22, 1996.

10 8. In conjunction with the Victoria application, Respondent also received an application for
11 roadside assistance through Roadside Motor Club and its \$40 enrollment fee from Mr. Kubly.

12 9. Respondent failed to forward the application and the enrollment fee from Mr. Kubly to
13 Roadside Motor Club.

14 **Count 2**

15 10. On or about January 12, 1996, Mr. and Mrs. Wallace C. Sweat paid Respondent \$1594,
16 which represents the full twelve-month premium for a motor vehicle insurance renewal policy
17 through Coronet Insurance Company (“Coronet”) commencing January 19, 1996.

18 11. Respondent failed to forward Mr. and Mrs. Sweat’s renewal premium to Coronet.

19 12. On or about January 25, 1996, Respondent fabricated an application for and obtained a
20 premium finance loan from Dwight Financial Inc. (“Dwight Financial”) in conjunction with Mr.
21 and Mrs. Sweat’s renewal policy.

22 13. On or about August 22, 1996, Mr. Sweat received notification that the policy with
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1 Coronet canceled due to non-payment of premium.

2 14. Upon receiving proof from Mrs. Sweat that the policy's full term premium had been paid
3 to Respondent, Insurance Service Underwriters, on behalf of Coronet, repaid the premium finance
4 loan to Dwight Financial and reinstated Mr. and Mrs. Sweat's policy.

5 **Count 3**

6 15. On or about April 10, 1996, Marion W. Barton ("Mr. Barton") renewed his motor vehicle
7 insurance policy through Midland Risk Insurance Company ("Midland Risk").

8 16. On or about April 10, 1996, in conjunction with his renewal application, Mr. Barton paid
9 Respondent the amount of \$902. Mr. Barton intended this amount to pay his motor vehicle
10 insurance premium in full for twelve months.

11 17. Respondent failed to forward Mr. Barton's renewal premium to Midland Risk.

12 18. On or about April 24, 1996, Respondent fabricated an application for and obtained a
13 premium finance loan from Dwight Financial Inc. ("Dwight Financial") in conjunction with Mr.
14 Barton's renewal policy. Respondent substituted his office address for Mr. Barton's address in
15 completing the application.

16 19. On or about July 25, 1996, a "Notice of Intent to Cancel" was mailed by Dwight Financial
17 to Mr. Barton. This notice advised Mr. Barton that the policy was to be canceled due to non-
18 payment of the premium. Mr. Barton never received this notice, as it was sent to Respondent's
19 address.

20 20. Upon receiving proof from Mr. Barton that the policy's full term premium had paid to
21 Respondent, Midland Risk reinstated Mr. Barton's policy.

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1 **Count 4**

2 21. On or about February 7, 1996, Respondent received an application from Scott
3 McCormick ("Mr. McCormick") for motor vehicle insurance through Midland Risk.

4 22. In conjunction with Mr. McCormick's application, Respondent received payment in the
5 amount of \$964 intended as Mr. McCormick's full twelve-month policy premium.

6 23. Respondent issued an insurance identification card indicating coverage through Midland
7 Risk effective from February 8, 1996 until February 8, 1997.

8 24. On or about February 8, 1996, Respondent fabricated an application for and obtained a
9 premium finance loan from Commonwealth Premium Finance ("Commonwealth") in conjunction
10 with Mr. McCormick's policy.

11 25. Respondent failed to forward Mr. McCormick's premium to Midland Risk.

12 26. Commonwealth mailed a notice to Mr. McCormick, in care of Respondent, informing him
13 that the Midland Risk policy was to be canceled for non-payment of premium. Mr. McCormick
14 was not apprised that the policy was about to be canceled.

15 27. Upon receiving proof from Mr. McCormick that the policy's full term premium had been
16 paid to Respondent, Midland Risk reinstated Mr. McCormick's policy without lapse.

17 **Count 5**

18 28. On or about May 22, 1996, Respondent received an application from Mr. McCormick for
19 motor vehicle insurance through Victoria.

20 29. In conjunction with Mr. McCormick's application, Respondent also received payment in
21 the amount of \$1442 intended as Mr. McCormick's full twelve-month policy premium.

22 30. Respondent issued an insurance identification card indicating coverage through Victoria
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1 effective from May 22, 1996 until May 22, 1997.

2 31. Respondent failed to forward Mr. McCormick's application and premium to Victoria.
3 Thus the policy was never issued.

4 **Count 6**

5 32. On or about August 17, 1995, Respondent received applications for motor vehicle
6 insurance through Coronet and USA Property and Casualty Insurance Company ("USA") from
7 Heather Beinlich ("Ms. Beinlich").

8 33. In conjunction with these applications, Respondent received payment in the amount of
9 \$2474, intended to pay both twelve-month policy premiums in full.

10 34. Respondent failed to forward Ms. Beinlich's applications and premiums to Coronet and
11 USA.

12 35. On or about August 17, 1995, Respondent fabricated an application for and obtained a
13 premium finance loan from Dwight Financial Inc. in conjunction with Ms. Beinlich's policies.

14 36. On or about September 20, 1995, Dwight Financial mailed a notice to Ms. Beinlich, in
15 care of Respondent, informing her that the Coronet insurance policy was to be canceled for non-
16 payment of premium. Ms. Beinlich was never apprised that the policy was about to be canceled.

17 37. On or about October 1, 1995, Ms. Beinlich's policy through USA was canceled at the
18 request of Dwight Financial.

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CONCLUSIONS OF LAW

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1. The Director has jurisdiction over this matter.
2. Respondent's conduct as described above constitutes the wilful violation of, or wilful noncompliance with, any provision of Title 20, or any lawful rule, regulation or order of the Director, pursuant to A.R.S. §20-316(A)(2).
3. Respondent's failure to forward premium payments to the above-referenced companies constitutes the diversion of the monies of an insurer or other person, within the meaning of A.R.S. §20-463(A)(4).
4. Respondent's failure to forward premium payments to the above-referenced companies constitutes misappropriation or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others and received in or during the conduct of business under the license or through its use, within the meaning of A.R.S. §20-316(A)(4).
5. Respondent's conduct alleged above constitutes a conduct of affairs under his 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).
6. Respondent's conduct in issuing false insurance identification cards constitutes making statements with respect to the business of insurance which are untrue, deceptive or misleading, within the meaning of A.R.S. §20-444(A).
7. Grounds exist for the Director to suspend, revoke, or refuse to renew the insurance licenses held by Respondent and to order him to pay civil penalties, pursuant to A.R.S. §§ 20-316 (A) and (C) and 20-456(B).

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ORDER

IT IS ORDERED THAT:

1. The insurance licenses held by Respondent Billy Burdette Bretting are revoked upon entry of this order.
2. Respondent shall pay a civil penalty in the amount of \$2,500 to the Director, for remission to the State Treasurer for deposit in the State General Fund.
3. Respondent shall pay restitution to:
 - a) Victoria Fire and Casualty in the amount of \$908.
 - b) Thomas Kubly in the amount of \$40.
 - c) Scott McCormick in the amount of \$1442.
 - d) Midland Risk in the amount of \$1036.
 - e) Insurance Service Underwriters in the amount of \$721.
 - f) Heather Beinlich in the amount of \$2474.

DATED AND EFFECTIVE THIS 20 day of May, 1997.



JOHN A. GREENE, DIRECTOR
ARIZONA DEPARTMENT OF INSURANCE

1 **CONSENT TO ORDER**

2 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.

3 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and
4 admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions
5 of Law and Order.

6 3. Respondent is aware of his right to notice and a hearing at which he may be represented
7 by counsel, present evidence and cross-examine witnesses. Respondent irrevocably waives his
8 right to such notice and hearing and to any court appeals relating to this Consent Order.

9 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly
10 contained in the Consent Order, was made to induce him to enter into this Consent Order and
11 that he has entered into this Consent Order voluntarily.

12 5. Respondent acknowledges that the acceptance of this Consent Order by the Director of
13 Insurance, State of Arizona, is solely to settle this matter against him and does not preclude an
14 other agency, officer or subdivision of this state from instituting civil or criminal proceedings
15 as may be appropriate now or in the future.

16
17
18 5-16-97

Date

Billy Burdette Bretting

Billy Burdette Bretting
License Number 537906

1 Copies of the foregoing mailed this 21st day of May, 1997.

2 Billy Burdette Bretting
3 2836 North 36th Street
4 Phoenix, Arizona 85008

Marion W. Barton
2520 North 45th Avenue
Phoenix, Arizona 85035

5 Billy Burdette Bretting
6 1887 East Pegasus Drive
7 Tempe, Arizona 85283

Scott McCormick
3545 West Davidson Lane
Phoenix, Arizona 85051

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

Heather Beinlich
1651 South Dobson, No. 363
Mesa, Arizona 85202

14 Donald J. Fischer
15 Bergman & Associates
16 8941 North 12th Street, Suite 2
17 Phoenix, Arizona 85020

Rosie M. Chrusic
Victoria Fire & Casualty Company
5915 Landerbrook Drive
Cleveland, Ohio 44124-4058

18 Thomas M. Kubly
19 6801 East Menlo Street
20 Mesa, Arizona 85207

Doug Kucensky
Insurance Service Underwriters
8723 East Via de Commercio
Scottsdale, Arizona 85258

21 Mr. and Mrs. W. C. Sweat
22 3412 East Pierce
23 Phoenix, Arizona 8508-6245

Harriet Marsden
Midland Risk
7340 South Kyrene Road, Suite 101
Tempe, Arizona 85283

Curvey W. Burton / Kath
Curvey Walters Burton