

1 **ORDER**

2 Based on the above, IT IS ORDERED THAT:

3 1. All insurance licenses held by Respondent are revoked effective upon the
4 issuance of this Order.

5 2. Respondent shall make restitution to the following insured and insurer and in the
6 amounts listed: (a) Fred A. Martin in the amount of \$855; and (b) Clarendon National
7 Insurance Company in the amount of \$824.

8 3. Respondent shall pay a civil penalty in the amount of \$ 1500.00 to the
9 Director payable upon entry of this Order for remission to the State Treasurer for deposit in the
10 State General Fund.

11 4. The hearing set for November 3 and 4, 1998, shall be vacated.

12 DATED this 28th day of October, 1998.

13 
14 CHARLES R. COHEN
15 Acting Director of Insurance

16 COPY of the foregoing mailed this
17 29th day of October, 1998, to:

18 Casey Newcomb
19 Administrative Law Judge
20 Office of Administrative Hearings
21 1700 West Washington, Suite 602
22 Phoenix, AZ 85007

23 Michael J. De La Cruz
24 Assistant Attorney General
25 1275 West Washington
26 Phoenix, AZ 85007

23 Gerrie L. Marks, Executive Assistant for Regulatory Affairs
24 John Gagne, Assistant Director
25 Brenda Paugh, Investigator
26 Maureen Catalioto, Supervisor
Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, AZ 85018

1 Randy W. Niles
Office of Administrative Hearings
2 1700 West Washington, Suite 602
Phoenix, Arizona 85007

3
4 Zachary Forbes Jones
3030 North 38th Drive
Phoenix, Arizona 85019
5 Respondent

6 Arrowhead General Insurance Agency
Attn: Todd Drake
7 6255 Lusk Boulevard
San Diego, CA 92121

8
9 Clarendon National Insurance Company
1177 Avenue of the Stars
New York, N.Y. 10036

10
11 Century National Insurance Company
P. O. Box 3999
North Hollywood, California 91609-9990

12
13 Insurance Network Corp.
5900 North Granite Reef, No. 150A
Scottsdale, AZ 85250

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17 41562 [CPA98-181]

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SEP 22 1998

STATE OF ARIZONA

SEP 22 1998

RECEIVED

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY EB

In the Matter of:)	Docket No. 98A-051-INS
ZACHARY FORBES JONES,)	NOTICE OF HEARING
Respondent.)	

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 ("Director"), or his duly designated representative, on the 3rd and 4th days of November, 1998, at 9:00 a.m., at the Office of Administrative Hearings, 1700 West Washington, Capital 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 party 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
2 be licensed to practice law in the State of Arizona or, if
3 Respondent is an insurer, it may be represented by a corporate
4 officer pursuant to A.R.S. § 20-161(B).

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

10 Questions concerning issues raised in this Notice of Hearing
11 should be directed to Assistant Attorney General Michael J. De La
12 Cruz, (602) 542-7722, 1275 West Washington, Phoenix, Arizona
13 85007.

14 NOTICE OF APPLICABLE RULES

15 On January 23, 1992, the Arizona Department of Insurance
16 adopted A.A.C. R 20-6-101 through R 20-6-115, setting forth the
17 rules of practice and procedure applicable in contested cases
18 before the Director. The hearing will be conducted pursuant to
19 these rules.

20 PURSUANT TO A.A.C. R 20-6-106, RESPONDENT SHALL FILE A
21 WRITTEN ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF
22 HEARING AND SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE
23 ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL
24 STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY
25 ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSER-
26 TION NOT DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT
27 RAISED IN THE ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT
28 TIMELY FILED, RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIREC-

1 TOR MAY DEEM THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION
2 IS APPROPRIATE, INCLUDING SUSPENSION, REVOCATION, OR DENIAL OF A
3 LICENSE, OR RENEWAL OF A LICENSE, IMPOSITION OF A CIVIL PENALTY
4 AND/OR ORDER RESTITUTION TO ANY PARTY INJURED.

5 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE ACCOMMODA-
6 TIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR ASSISTANCE
7 WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS SHOULD
8 BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE FOR THE
9 ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT
10 THE OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

11 The Department alleges:

12 1. Respondent is, and was at all material times, licensed
13 in Arizona to transact property and casualty insurance business
14 as an agent and broker, license number 543391.

15 COUNT I - BALDWIN

16 2. On or about December 6, 1996, Katherine O. Baldwin
17 ("Baldwin") completed an application for automobile insurance to
18 be procured by Respondent. Baldwin gave Respondent two checks in
19 the amount of \$158.00 each, check numbers 514 and 515, made paya-
20 ble to Zachary Jones.

21 3. Respondent completed an Arrowhead General Insurance
22 Agency ("Arrowhead") Premium Payment Receipt evidencing receipt
23 of payment from Baldwin for automobile insurance through Clarendon
24 National Insurance Company ("Clarendon"). Respondent also gave
25 Baldwin three temporary Arizona automobile insurance identifica-
26 tion cards for each of the three vehicles to be covered. The
27 identification cards show Clarendon as the insurer with an
28 effective date of 12/06/96 and expiration date of 12/06/97.

1 Arrowhead does not offer an annual policy through Clarendon in
2 Arizona.

3 4. Baldwin discovered Respondent cashed her checks, yet
4 never forwarded the premium or the application to Arrowhead.
5 When Baldwin sent Paul Shelby, her boyfriend, to confront Respon-
6 dent, he assured Shelby that the matter would be resolved and
7 Baldwin would receive two free months of insurance. Respondent
8 also told Shelby that a new application was sent to Arrowhead.

9 5. Arrowhead verified that it did not receive an applica-
10 tion or down payment of premium from Respondent for Baldwin. The
11 first information Arrowhead had regarding Baldwin was the Depart-
12 ment's June 1997 inquiry. Based on the information provided to
13 Arrowhead, a Clarendon automobile insurance policy was issued to
14 Baldwin effective 12/6/96.

15 COUNT II - MARTIN

16 6. On or about September 9, 1996, Fred A. Martin ("Martin")
17 went to Respondent's office to obtain liability coverage for a
18 fencing construction project. Martin gave Respondent a check in
19 the amount of \$855.00 payable to Insurance Network Corp.
20 ("I.N.C."). Respondent bound the coverage, but never forwarded
21 the application or premium, therefore Martin never had coverage
22 for the fencing project.

23 7. On or about September 30, 1996, Martin returned to
24 Respondent's office to obtain liability coverage on his ranch.
25 Respondent asked Martin to write another check for \$855.00 pay-
26 able directly to Respondent. At this time, Respondent admitted
27 never forwarding Martin's first check for the fencing construc-
28 tion project to the insurer.

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penalty upon Respondent and/or order restitution pursuant to A.R.S. §§ 20-316(A) and 20-316(C).

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

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

Pursuant to A.R.S. § 41-1092.01, the Hearing will be conducted through the Office of Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to be followed.

DATED this 22nd day of September, 1998.



CHARLES R. COHEN
Acting Director of Insurance

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COPY of the foregoing mailed/delivered
this 22nd day of September, 1998, to:

Zachary Forbes Jones
3030 North 38th Drive
Phoenix, Arizona 85019

Zachary Forbes Jones
Larry Miller Toyota
8425 West Bell Road
Peoria, Arizona 85382

Gerrie L. Marks, Executive Assistant for Regulatory Affairs
John D. Gagne, Assistant Director
Maureen Catalicto, Licensing Supervisor
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

Brenda Paugh
Arizona Department of Insurance
400 West Congress, Suite 152
Tucson, Arizona 85701

Michael J. DeLaCruz
Assistant Attorney General
Attorney General's Office
1275 West Washington
Phoenix, Arizona 85007

Office of Administrative Hearings
Capitol Tower, West Wing
1700 West Washington, Suite 602
Phoenix, Arizona 85007

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 notice or documents concerning this
matter other than the Director's Final Order. Information about
the status of this matter, including whether the hearing date has
been changed, may be obtained by contacting the Department of In-
surance at (602) 912-8454 or the Assistant Attorney General iden-
tified above at (602) 542-7722.

Arrowhead General Insurance Agency
Attn: Todd Drake
6255 Lusk Boulevard
San Diego, California 92121

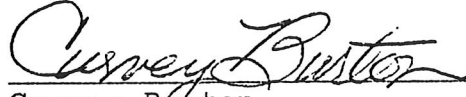
Clarendon National Insurance Company
1177 Avenue of the Stars
New York, New York 10036

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Century National Insurance Company
Post Office Box 3999
North Hollywood, California 91609-9990

Insurance Network Corp.
5900 North Granite Reef, No. 150A
Scottsdale, Arizona 85250



Curvey Burton