

SEP 30 2015

DEPT OF INSURANCE
BY ML

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

BOUDREAUX, JERROLD DWAYNE
(Arizona License No. 94578)
(National Producer No. 6731874)

No. 15A-064-INS

ORDER

Respondent.

On September 24, 2015, the Office of Administrative Hearings, through Administrative Law Judge M. Douglas, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on September 25, 2015, a copy of which is attached and incorporated by this reference. The Acting Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

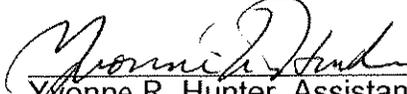
1. The Acting Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Acting Director revokes the Arizona resident insurance producer license, No. 94578, of **Jerrold Dwayne Boudreaux** effective immediately.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing with respect to this order by filling a written motion with the Acting Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

1 Respondent may appeal the final decision of the Acting Director to the Superior
2 Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an
3 appeal must notify the Office of Administrative Hearings of the appeal within ten days after
4 filing the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 29th day of September, 2015.

6
7 
8 Yvonne R. Hunter, Assistant Director for
Darren T. Ellingson, Acting Director
9 Arizona Department of Insurance

10
11 COPY of the foregoing mailed this
12 30th day of September, 2015 to:

13 Jerrold Dwayne Boudreaux
14 2019 E. Gwen Street
15 Phoenix, Arizona 85042
16 Respondent

17 Mary Kosinski, Executive Assistant for Regulatory Affairs
18 Catherine O'Neil, Consumer Legal Affairs Officer
19 Yvonne Hunter, Consumer Affairs Assistant Director
20 Steven Fromholtz, Licensing Director
21 Barbara Beltran, Business Office
22 Arizona Department of Insurance
23 2910 North 44th Street, Suite 210
24 Phoenix, Arizona 85018

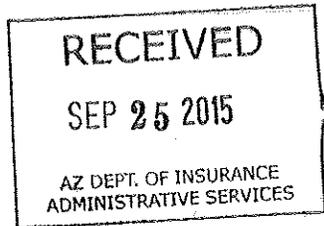
25 Liane Kido
26 Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

24 
25 Maidene Scheiner

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS



In the Matter of:

No. 15A-064-INS

BOUDREAU, JERROLD DWAYNE,
(Arizona License Number 94578)
(National Producer Number 6731874)

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: September 23, 2015, at 1:00 p.m.

APPEARANCES: The Arizona Department of Insurance (hereinafter "Department") was represented by Assistant Attorney General Liane C. Kido. Jerrold Dwayne Boudreaux (Arizona License Number 94578) (National Producer Number 6731874) (hereinafter "Respondent" or "Mr. Boudreaux") appeared on his own behalf.

ADMINISTRATIVE LAW JUDGE: M. Douglas

FINDINGS OF FACT

Background and Procedure

1. Respondent is licensed as an Arizona resident property, casualty, accident/health, and life insurance producer. Respondent's individual license (Arizona License Number 94578) expired on October 31, 2013, and he renewed the license effective November 1, 2014. Respondent's individual license (Arizona License Number 94578) expires on October 31, 2017.¹
2. Respondent was the Designated Responsible Person and Managing Partner for Boudreauxs Arizona Insurance Services (hereinafter "Boudreauxs"), an entity that was licensed by the Department until April 30, 2014.
3. On April 30, 2014, the Department revoked Boudreauxs' Arizona resident insurance producer license in though a consent order in the case in the Matter of

¹ See Exhibit 1 (Licensing Information).

1 Boudreaux, Jerrold Dwayne and Boudreauxs Arizona Insurance Services, Docket No.
2 14A-057-INS.²

3 4. The April 30, 2014 Consent Order (hereinafter "Consent Order") ordered
4 Respondent and Boudreauxs to:

- 5 A. Immediately make restitution to Travelers Insurance Company
6 (hereinafter "Travelers"), on behalf of victims Yi Tang and Shawn
7 Hawkins, in the amount of \$2,841.50;
8 B. Immediately make restitution to Maria Molina and Eugenio
9 Serrano in the amount of \$717.00;
10 C. Immediately make restitution to Louis and Sandra Russell in
11 the amount of \$1,050.00;
12 D. Immediately make restitution to Jolie Jessie in the amount of
13 \$600; and
14 E. Immediately make restitution to any other heretofore
15 undiscovered victims.

16 5. On or about May 11, Travelers notified the Department that it had no record of
17 restitution being made to it by Respondent or Boudreauxs.³

18 6. On or about May 6, 2015, Jolie Jessie notified the Department that she had not
19 received any restitution from Respondent or Boudreauxs.

20 7. On or about May 4, 2015, Maria Molina notified the Department that she had not
21 received any restitution from Respondent or Boudreauxs.

22 8. On or about May 4, 2015, Louis Russell notified the Department that he had not
23 received any restitution from Respondent or Boudreauxs.

24 9. On or about April 23, 2015, Veronica Hylton (hereinafter "Ms. Hylton") notified
25 the Department that she paid \$1,891.00 in two (2) payments to Respondent to insure
26 her home and that the following checks were delivered to Respondent and/or
27 Boudreauxs:⁴

- 28 A. On or about February 26, 2013, Ms. Hylton's title company,
29 Title Insurance Agency of Arizona, issued a check (No. 239746)
30 made payable to Arizona Insurance Svc., in the amount of
\$1,159.00.

² See Exhibit 2 (Consent Order).

³ See Exhibit 3 (Emails).

⁴ See Exhibit 4 (Request for Assistance by Veronica Hylton).

1 B. On or about May 22, 2013, a Chase check (No. 9800280) was
2 issued in the amount of \$732.00 and made payable to Fidelity
3 National Ins. Co.

4 10. Respondent and/or Boudreauxs deposited both checks into account number
5 xxxxx1973, the same account in which the payments of the victims' identified on Docket
6 No. 14A-057-INS had been deposited.⁵

7 11. Respondent and/or Boudreauxs did not tell the Department that Ms. Hylton was a
8 victim at the time Respondent and Boudreauxs entered into the April 30, 2014 Consent
9 Order.

10 12. On or about May 10, 2013, American Premier Insurance Agency, Inc. (hereinafter
11 "American Premier") (License number 137239) purchased Respondent's and
12 Boudreauxs' "book of business." American Premier's "designated responsible licensed
13 producer" is Harold Bordelon, License number 783490 (hereinafter "Mr. Bordelon").

14 13. On or about May 27, 2013, Mr. Bordelon confirmed that Ms. Hylton became his
15 client when he purchased the book of business. Mr. Bordelon further confirmed that
16 Ms. Hylton did not have a homeowner's policy in effect. Mr. Bordelon contacted Fidelity
17 National Insurance Company and Travelers Insurance Company to ascertain whether
18 either company had issued Ms. Hylton a homeowner's policy. Both companies
19 indicated that they had not received funds on behalf of Ms. Hylton and were unwilling to
20 make her whole.

21 Testimony

22 14. Wendy Greenwood (hereinafter "Investigator Greenwood") testified that she had
23 been an investigator for the Department for approximately ten (10) months. Investigator
24 Greenwood said that she was familiar with Respondent's case. Investigator Greenwood
25 said that Respondent had failed to pay any of the restitution set forth in the Consent
26 Order. Investigator Greenwood said that she had not heard anything from Respondent
27 until the day before the hearing.

28 15. Ms. Greenwood's testimony is found to be credible.

29
30 ⁵ See Exhibit 7 (Copies of checks).

1 16. Mr. Boudreaux testified that he understood the Consent Order as requiring him to
2 pay restitution to Travelers for all of the individuals listed in the Consent Order. Mr.
3 Boudreaux acknowledged that he did not have the entire sum necessary to pay the total
4 amount of money needed to pay all of the restitution. Mr. Boudreaux said that he had
5 sent four separate letters to Travelers requesting that he be allowed to work out a
6 payment plan with Travelers for the entire amount of the restitution.⁶ Mr. Boudreaux
7 acknowledged that he did not have any proof of mailing.

8 17. Ms. Hynton appeared telephonically and testified that Mr. Boudreaux had made
9 full restitution to her and that she wished to withdraw her complaint against Mr.
10 Boudreaux.

11 CONCLUSIONS OF LAW

12 1. This matter lies within the jurisdiction of the Department.⁷

13 2. The Department bears the burden to establish by a preponderance of the
14 evidence that grounds exist to suspend, revoke, or refuse to renew Respondent's
15 insurance license.⁸ "A preponderance of the evidence is such proof as convinces the
16 trier of fact that the contention is more probably true than not."⁹ A preponderance of the
17 evidence is "[t]he greater weight of the evidence, not necessarily established by the
18 greater number of witnesses testifying to a fact but by evidence that has the most
19 convincing force; superior evidentiary weight that, though not sufficient to free the mind
20 wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to
21 one side of the issue rather than the other."¹⁰

22 3. The preponderance of the evidence established that Respondent's conduct, as
23 found above, constitutes a violation of an Order of the Director within the meaning of
24 A.R.S. § 20-295(A)(2).

25
26 ⁶ See Exhibits A, B, C, and D (Copies of letters allegedly mailed to Travelers).

27 ⁷ See A.R.S. §§ 20-281 to -302.

28 ⁸ See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119; see also *Vazanno v. Superior Court*, 74 Ariz. 369,
372, 249 P.2d 837 (1952).

29 ⁹ Morris K. Udall, ARIZONA LAW OF EVIDENCE § 5 (1960).

30 ¹⁰ BLACK'S LAW DICTIONARY at 1220 (8th ed. 1999).

1 4. The preponderance of the evidence established that Respondent's conduct, as
2 found above, constitutes improperly withholding, misappropriating or converting any
3 monies or property received in the course of doing insurance business within the
4 meaning of A.R.S. § 20-295(A)(4).

5 5. The preponderance of the evidence established that Respondent's conduct, as
6 found above, constitutes using fraudulent, coercive or dishonest practices, or
7 demonstrating incompetence, untrustworthiness or financial irresponsibility in the
8 conduct of business in this State, within the meaning of A.R.S. § 20-295(A)(8).

9 6. The preponderance of the evidence established that grounds exist for the
10 Director to suspend, revoke, or refuse to renew Respondent's insurance license,
11 impose a civil penalty, and/or order the licensee to pay restitution. A.R.S. § 20-295(A)
12 and (F).

13 **RECOMMENDED ORDER**

14 Based on the foregoing, it is ordered that Respondent Jerrold Dwayne
15 Boudreaux's Arizona License Number 94578 (National Producer Number 6731874) be
16 revoked.

17 *In the event of certification of the Administrative Law Judge Decision by the*
18 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
19 *five (5) days from the date of that certification.*

20 Done this day, September 24, 2015.

21 /s/ M. Douglas
22 Administrative Law Judge

23 Transmitted electronically to:

24 Darren Ellingson, Deputy Director
25 Arizona Department of Insurance
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28
29
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