

OCT 13 2017

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE  
DEPT OF INSURANCE  
BY MS

In the Matter of:

**WILLIAMS, RONALD JAY**  
(National Producer No. 2898674)  
(Legacy License ID 623187)

**No. 17A-026-INS**

**ORDER**

Respondent.

On October 3, 2017, the Office of Administrative Hearings, through Administrative Law Judge Diane Mihalsky, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Interim Director of the Department of Insurance ("Interim Director") on October 3, 2017, a copy of which is attached and incorporated by this reference. The Interim Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director revokes the Arizona resident insurance producer license, National Producer No. 2898674, of **Ronald Jay Williams** effective immediately.
3. The Interim Director orders **Ronald Jay Williams** to pay restitution, within 30 days of the filing date of this order, to Farmers Insurance Company in the amount of \$6,172.21 and provide written proof to the Department of such payment.

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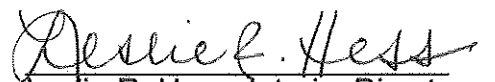
1 4. The Interim Director reserves the right to deny any future application  
2 submitted by Respondent until he provides proof of payment of the restitution  
3 ordered above.

4 **NOTIFICATION OF RIGHTS**

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

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

14 DATED this 10<sup>th</sup> day of October, 2017.

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17 Leslie R. Hess, Interim Director  
Arizona Department of Insurance

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19  
20 COPY of the foregoing mailed this  
13<sup>th</sup> day of October, 2017, to:

21 Ronald Jay Williams  
9330 E. Poinsettia Dr., Suite 101  
22 Scottsdale, AZ 85258  
Respondent

23  
24 Ronald Jay Williams  
7737 E. San Fernando Dr.  
25 Scottsdale, AZ 85255  
Respondent  
26

1 Mary Kosinski, Regulatory Legal Affairs Officer  
Catherine O'Neil, Consumer Legal Affairs Officer  
2 Steven Fromholtz, Assistant Director – Consumer Protection Division  
Wendy Greenwood, Investigator  
3 Sharyn Kerr, Consumer Protection Division  
Arizona Department of Insurance  
4 2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018

5 Liane Kido  
6 Assistant Attorney General  
1275 West Washington Street  
7 Phoenix, Arizona 85007-2926

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

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11 Maidene Scheiner

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OCT 03 2017

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT. OF INSURANCE  
BY: MSK

In the Matter of:

No. 17A-026-INS

WILLIAMS, RONALD JAY  
(National Producer Number 2898674)  
(Legacy AZ License Number 623187)

ADMINISTRATIVE LAW JUDGE  
DECISION

Respondent.

**HEARING:** September 21, 2017, at 1:00 p.m.

**APPEARANCES:** The Arizona Department of Insurance ("the Department") was represented by Liane Kido, Esq., Assistant Attorney General; Ronald Jay Williams ("Respondent") appeared on his own behalf.

**ADMINISTRATIVE LAW JUDGE:** Diane Mihalsky

**FINDINGS OF FACT**

1. The Department referred this matter to the Office of Administrative Hearings, an independent state agency, for an evidentiary hearing on Respondent's appeal of the Department's intent to revoke his insurance producer's license. The Department issued a Notice of Hearing that charged cause to discipline Respondent's license under A.R.S. §§ 20-295(A)(2), 20-295(A)(5), 20-295(A)(8), and 20-463(A)(1)(a).

2. The Department submitted six exhibits and presented the testimony of its investigator Wendy Greenwood. Respondent testified on his own behalf.

3. At all material times, Respondent was licensed as an Arizona resident insurance producer with lines of authority in life, casualty, property, and accident/health or sickness, National Producer Number 2898674, which expires on September 30, 2020.<sup>1</sup>

4. On or about November 10, 2016, the Department received a notice of willful misrepresentation from Farmers Insurance Company ("Farmers") based on Respondent's submission of falsified documents to obtain discounts for clients that the clients were not entitled to receive. Investigator Marletta Wilmarth of Farmers told the

<sup>1</sup> See Exhibit 1.

1 Department that Respondent had falsified at least 30 teaching certificate credentials to  
2 provide unwarranted policy premium discounts totaling \$6,332.25. Ms. Wilmarth  
3 explained that Farmers offered an educator affinity discount of 15% of the premium to  
4 persons who possess teaching credentials. Ms. Wilmarth stated that the full financial  
5 impact of Respondent's fraud on Farmers was probably significantly higher because  
6 some of the policies had been misrated for years.<sup>2</sup>

7 5. Ms. Wilmarth informed the Department that Respondent had "recycled" the  
8 same certificate number from the Arizona Department of Education that one insured,  
9 Rita Treat, had provided to secure the educator affinity discount for the other insureds.  
10 Farmers had audited a random sample of 35 teaching certificate credentials that  
11 Respondent had submitted to obtain the 15% discount and learned that 30 of the  
12 certificates had Ms. Treat's certificate number with the name changed. Ms. Wilmarth  
13 stated that Farmers checked the Arizona Department of Education's records and found  
14 that none of the 30 insureds actually possessed teaching certificates.

15 6. Ms. Wilmarth provided to the Department Respondent's August 30, 2017  
16 signed written response to Farmer's investigation, in which he did not dispute that he  
17 had misrepresented the insureds' credentials to obtain educator affinity discounts and  
18 stated in relevant part as follows:

19 The educator affinity discount is about 1%. At some point I  
20 created teaching certificates for insureds in order to be more  
21 competitive. I received a teaching certificate from Rita Treat  
22 and started using that certificate as a template to create  
23 other educator certificates and believe I may have falsified at  
24 least 40 teaching certificates. . . . The certificate number,  
[XXX3648], and Educator ID number 2520821, appear on  
each of the certificates. Some of these individuals are  
teachers, but the teaching certificate is not for them . . . .

25 About a month ago, I came to my senses and destroyed the  
26 teaching certificate that I had in my office and haven't  
27 created any [since]. I have not altered or falsified any other  
28 documents. I did not learn this practice from anyone. I  
29 didn't have a specific system to determine who got the  
30 teaching affinity discount and who didn't. I did it at random.

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<sup>2</sup> See Exhibit 2.

1 I agree that it's a misrepresentation to submit a falsified  
2 document to the company.<sup>3</sup>

3 7. Ms. Wilmarth also submitted to the Department a table of the 30 insureds for  
4 whom Respondent had submitted a falsified teaching certificate to obtain an educator  
5 affinity discount to which the insureds were not entitled.<sup>4</sup> The table showed the impact  
6 of the 15% educator affinity discount on the annual premium. All of the insureds had  
7 the same certificate number, except Cheryl Cunningham. Farmers also provided the  
8 results of its search for the insureds on the Arizona Department of Education's website,  
9 which showed that most of the insureds did not have any record of having been issued  
10 a teaching certificate. Although insured Susan Loe had a certificate, it had a different  
11 number from the fraudulent teaching certificate that Respondent had submitted for her  
12 to obtain an educator affinity discount.

13 8. As part of the Department's investigation, it issued a subpoena duces tecum  
14 to Respondent ordering him to appear on January 30, 2017, before the Department.  
15 Ms. Greenwood testified that Respondent admitted that he falsified teaching certificates  
16 to obtain unwarranted educator affinity discounts for his customers, but disputed the  
17 amount of the discount and that amount of restitution that would be owed to Farmers  
18 based on the unwarranted discounts.

19 9. The Department obtained records from the Arizona Department of Education  
20 showing the insured Cheryl Cunningham possessed a valid teaching certificate with the  
21 numbers shown on the certificate that Respondent had submitted to Farmers to  
22 establish her eligibility for the educator affinity discount. Ms. Greenwood testified that  
23 she had confirmed the certificate's authenticity and that Ms. Cunningham was employed  
24 by the Supai School District. The Department deducted the \$158.04 premium impact  
25 for Ms. Cunningham from the requested restitution from Farmer's calculation of the  
26 financial impact of Respondent's fraud, for a total of \$6,174.21.

27 10. Respondent did not dispute that he had falsified teaching certificates to  
28 obtain unwarranted discounts for his customers. However, he testified that he believed  
29 that Farmer's educator affinity discount was 5%. Respondent testified that he talked to

30 <sup>3</sup> The Department's Exhibit 3.

<sup>4</sup> See the Department's Exhibit 4.

1 someone at Farmer's and that they confirmed the 5% discount, but that they refused to  
2 provide anything in writing.

3 11. Ms. Greenwood testified that she clarified with Farmers that its educator  
4 affinity discount was actually 15% of the premium, not 1% as Respondent stated in his  
5 response or 5% that he testified at the hearing. The Department submitted emails from  
6 Ms. Wilmarth that confirmed the 15% discount.<sup>5</sup>

7 12. Respondent argued that he should be allowed to keep his insurance  
8 producer's license because he has been licensed for more than 30 years and this is the  
9 first complaint that has ever been made against his license.

### 10 CONCLUSIONS OF LAW

11 1. The Department has jurisdiction to determine the merits of complaints against  
12 Respondent's insurance producer's license and, if appropriate, to revoke, suspend, or  
13 impose other discipline on Respondent's insurance producer's license.<sup>6</sup>

14 2. The Department bears the burden of proof to establish that cause to discipline  
15 Respondent's insurance license by a preponderance of the evidence.<sup>7</sup> "A  
16 preponderance of the evidence is such proof as convinces the trier of fact that the  
17 contention is more probably true than not."<sup>8</sup> Respondent bears the burden to establish  
18 affirmative defenses and factors in mitigation of the penalty by the same evidentiary  
19 standard.<sup>9</sup>

20 3. A preponderance of the evidence is "[t]he greater weight of the evidence, not  
21 necessarily established by the greater number of witnesses testifying to a fact but by  
22 evidence that has the most convincing force; superior evidentiary weight that, though not  
23 sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair  
24 and impartial mind to one side of the issue rather than the other."<sup>10</sup>

25 4. The Department established that Respondent created at least 29 fraudulent  
26 education certificates to obtain educator affinity discounts for customers who were not

27 <sup>5</sup> See the Department's Exhibit 6.

28 <sup>6</sup> See A.R.S. §§ 20-281 to 20-301.

29 <sup>7</sup> See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119(B)(1); see also *Vazanno v. Superior Court*, 74 Ariz.  
30 369, 372, 249 P.2d 837 (1952).

<sup>8</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

<sup>9</sup> See A.A.C. R2-19-119(B)(2).

<sup>10</sup> BLACK'S LAW DICTIONARY at page 1220 (8<sup>th</sup> ed. 1999).

1 entitled to use the certificates that Respondent created to obtain the discount. The  
2 Department has thereby established cause to discipline Respondent's insurance  
3 producer's license under A.R.S. §§ 20-295(A)(5),<sup>11</sup> 20-295(A)(8),<sup>12</sup> 20-295(A)(2),<sup>13</sup> and  
4 20-463(A)(1)(a).<sup>14</sup>

5 5. With respect to the appropriate penalty, Respondent's fraud was egregious  
6 and repeated. Respondent did not establish that he "came to his senses" or that  
7 anything other than Farmer's discovery of his fraud caused him to discontinue his  
8 practice of fraudulently obtaining discounts for customers who were not entitled to the  
9 discounts. Under the circumstances, revocation is appropriate.

10 6. A.R.S. § 20-295(F) authorizes the Department to require a licensee to pay  
11 restitution to compensate their victims for losses caused by the licensee's violation of  
12 applicable statutes. The Department established that the educator affinity is 15% of the  
13 premium and that Respondent's use of fraudulent teaching certificates to obtain  
14 educator affinity discounts for at least 29 insureds caused Farmers to lose at least  
15 \$6,174.21 in premium payments that otherwise would have been due.

#### 16 **RECOMMENDED DECISION**

17 Based on the foregoing, on the effective date of the final order in this matter, it is  
18 ordered that Respondent Ronald Jay Williams' license National Producer Number  
19 2898674 (Legacy AZ License Number 623187) shall be revoked.

20 It is further ordered that thirty (30) days after the effective date of the final order,  
21 Respondent shall submit satisfactory written proof to the Department that he has paid  
22 Farmer's \$6,174.21 in restitution by certified or cashier's check.

23 It is further ordered that if Respondent fails to submit satisfactory written proof  
24 that he has paid \$6,174.21 to Farmers, the Department shall not issue any future  
25

26 <sup>11</sup> A.R.S. § 20-295(A)(5) provides as ground to suspend or revoke a license "[i]ntentionally  
27 misrepresenting the terms of an actual or proposed insurance contract or application for insurance."

28 <sup>12</sup> A.R.S. § 20-295(A)(8) provides as grounds to suspend or revoke a license "[u]sing fraudulent, coercive  
29 or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in  
30 the conduct of business in this state or elsewhere."

<sup>13</sup> A.R.S. § 20-295(A)(2) provides as grounds to suspend or revoke a license "[v]iolating any provision of  
this title or any rule, subpoena or order of the director."

<sup>14</sup> A.R.S. § 20-463(A)(1)(a) provides that it is fraudulent to knowingly provide incorrect information or fail  
to disclose any material facts in an insurance policy application.



1 license to Respondent unless Respondent establishes that he has paid Farmers  
2 \$6,174.21 in restitution.

3 *In the event of certification of the Administrative Law Judge Decision by the*  
4 *Director of the Office of Administrative Hearings, the effective date of the Order will be*  
5 *five days from the date of that certification.*

6 Done this day, October 2, 2017.

7 /s/ Diane Mihalsky  
8 Administrative Law Judge

9 Transmitted electronically to:

10 Leslie R. Hess, Interim Director  
11 Arizona Department of Insurance  
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