

MAR 13 1997

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Kathy

4	In the Matter of:)	Docket No. 96A-198-INS
)	
5	SETTLERS INSURANCE, INC.;)	
	RAINBOW PREFERRED INSURANCE,)	ORDER
6	INC.; GENE R. MONTELEONE;)	
	IRENE ROBBINS; WILLIAM)	
7	ROLLAND ARMSTRONG)	
)	
8	Respondents.)	
)	

10 On February 14, 1997, the Office of Administrative Hearings, through Administrative Law
 11 Judge, Richard N. Blair, submitted Recommended Decision of Administrative Law Judge
 12 ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The
 13 Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters
 14 the following order:


- 15 1. The recommended findings of fact and conclusions of law are adopted.
- 16 2. William Rolland Armstrong shall be suspended for five (5) days after the effective
 17 date of this Order and shall be required to pay a civil penalty in the amount of \$1,000.00 within thirty
 18 (30) days of the effective date of this Order.

NOTIFICATION OF RIGHTS

20 The aggrieved party may request a rehearing with respect to this Order by filing a written
 21 petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth
 22 the basis for such relief pursuant to A.A.C. R20-6-114(B).
 23

1 The final decision of the Director may be appealed to the Superior Court of Maricopa
2 County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of
3 Administrative Hearings of the appeal within ten days after filing the complaint commencing the approval,
4 pursuant to A.R.S. § 41-1092.10.

5 EFFECTIVE this 12 day of March, 1997.

6
7
8 
9 John A. Greene
Director of Insurance

10 A copy of the foregoing mailed
11 this 13th day of March, 1997

12 Charles R. Cohen, Deputy Director
13 John Gagne, Assistant Director
14 Catherine O'Neil, Assistant Director
15 Maureen Catalioto, Supervisor
Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, AZ 85018

16 Mark Sendrow
17 Assistant Attorney General
1275 West Washington
Phoenix, AZ 85007

18 Office of Administrative Hearings
19 1700 W. Washington, Suite 602
Phoenix, AZ 85007

20 S. David Childers
21 John P. Flynn
22 Low & Childers, P.C.
2999 N. 44th Street, Suite 250
Phoenix, AZ 85018

1 Irene Robbins
4231 E. Saguaro Drive
2 Phoenix, AZ 85028

3 William Rolland Armstrong
2840 E. Wagoner Road
4 Phoenix, AZ 85032

5 Settlers Insurance, Inc.
3911 W. McDowell Road, #11
6 Phoenix, AZ 85009-2114

7 Rainbow Preferred Insurance, Inc.
3420 E. Shea Boulevard, #115
8 Phoenix, AZ 85028

9 Gene R. Monteleone
Rainbow Preferred Insurance, Inc.
10 3420 E. Shea Boulevard, #115
Phoenix, AZ 85028

11 Irene Robbins
12 Settlers Insurance, Inc.
3911 W. McDowell Road, #11
13 Phoenix, AZ 85009-2114

14 William Rolland Armstrong
Settlers Insurance, Inc.
15 3911 W. McDowell Road, #11
Phoenix, AZ 85009-2114

16 Thunderbird Insurance Group, Inc.
17 3420 E. Shea Boulevard, #115
Phoenix, AZ 85028

18 American-Summit Insurance Company
19 14805 N. 73rd Street
Scottsdale, AZ 85260-3107

20 Colonial Insurance Company of California
21 P.O. Box 4347
Anaheim, CA 92803-4347

22
23

1 Safeco Insurance Company of America
Safeco Plaza
2 Seattle, WA 98185

3 Safeway Insurance Company
790 Pasquinelli Drive
4 Westmont, IL 60559-1254

5 Dairyland Insurance Company
1800 N. Point Drive
6 Stevens Point, WI 54481

7 Hartford Casualty Insurance Company
Hartford Plaza
8 Hartford, CT 06115

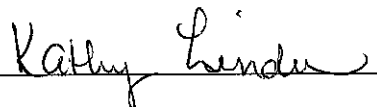
9 Midland Risk Insurance Company
825 Crossover Lane, #112
10 Memphis, TN 38117-4936

11 Progressive Casualty Insurance Company
E61, 6300 Wilson Mills Road
12 Mayfield Village, OH 44143

13 Statewide Insurance Company
P.O. Box 799
14 Waukegan, IL 60079

15 Victoria Fire & Casualty Company
5915 Landerbrook Drive, #210
16 Cleveland, OH 44124-4058

17 Viking Insurance Company of Wisconsin
P.O. Box 5365
18 Madison, WI 53705-0365

19 
20

21

22

23

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 **In the matter of:**

No. 96A-198-INS

4 **SETTLERS INSURANCE, INC.;**
5 **RAINBOW PREFERRED INSURANCE,**
6 **INC.; GENE R. MONTELEONE; IRENE**
7 **ROBBINS; WILLIAM ROLLAND**
8 **ARMSTRONG**

RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE

9 **Respondents**

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11
12 **HEARING: January 30, 1997**

13 **APPEARANCES: William Rolland Armstrong appeared at the hearing; and**
14 **Assistant Attorney General Mark Sendrow appeared on behalf of the Arizona**
15 **Department of Insurance.**

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17 **ADMINISTRATIVE LAW JUDGE: Richard N. Blair**

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19
20 **At the start of the hearing, Assistant Attorney General Mark Sendrow, counsel**
21 **for the Arizona Department of Insurance (the "Department"), stated that the Department**
22 **had entered into a Consent Order with Settlers Insurance, Inc. and Gene Monteleone**
23 **on January 28, 1997. On January 3, 1997, the Department entered a Default Order**
24 **against Respondent Irene Robbins. The scope of the hearing in this matter was limited**
25 **to paragraphs 15, 16, 17, 24, 25, 26, and 27 of the Notice of Hearing.**

26 **Based upon the entire record, the following recommended Findings of Fact,**
27 **Conclusions of Law, and Recommended Order are made:**

28 . . .

29 . . .

30 . . .

Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007
(602) 542-9826

1 **FINDINGS OF FACT**

2
3 1. At all times material to this matter, William Rolland Armstrong ("Mr.
4 Armstrong") was and is the holder of a property and casualty agent license in the State
5 of Arizona.

6 2. At all times material to this matter, Settlers Insurance, Inc. ("Settlers") was
7 an Arizona corporation licensed to transact the business of insurance in the State of
8 Arizona. Settlers principal place of business was at 102212 North 32nd Street, #K,
9 Phoenix, Arizona (the "32nd Street Office") and Settlers maintained branch offices in
10 Apache Junction and Maryvale.

11 3. At all times material to this matter, Settlers was the holder of a property
12 and casualty agent/broker insurance license.

13 4. At all times material to this matter, Mr. Armstrong was employed by
14 Settlers as a licensed insurance agent and in that capacity Mr. Armstrong's primary
15 function was to provide insurance price quotes to prospective insureds over the
16 telephone.

17 5. At all times material to this matter, Aprile Schreck was employed at
18 Settlers' Apache Junction branch office as a customer service representative.

19 6. At all times material to this matter, Cecilia Losada was employed at
20 Settlers' Maryvale branch office as a customer service representative.

21 7. Arnold Sniegowski, the Supervisor of Investigations for the Department,
22 credibly testified that on August 12, 1996 he telephoned Settlers' 32nd Street Office
23 using a fictitious name and requested a price quote for the minimum amount of
24 automobile liability insurance coverage required by Arizona law.

25 8. The evidence established that on August 12, 1996, Mr. Armstrong spoke
26 with Mr. Sniegowski and quoted Mr. Sniegowski a price for automobile insurance which
27 included an additional \$25.00 charge for 6-months of motor club/roadside coverage.
28 However, Mr. Armstrong never disclosed to Mr. Sniegowski that the quoted insurance
29
30

1 premium included that additional charge for motor club/roadside coverage or that motor
2 club/roadside coverage was an optional coverage.

3 9. K. Robert Hill ("Mr. Hill"), a Department Investigator, credibly testified that
4 on August 12, 1996 he telephoned Settlers' 32nd Street Office and requested a price
5 quote for the minimum amount of automobile liability insurance coverage required by
6 Arizona law. However, the evidence established that Mr. Armstrong quoted Mr. Hill a
7 price for automobile insurance coverage which included an additional \$25.00 charge for
8 6 months of motor club/roadside coverage. Mr. Armstrong never disclosed to Mr. Hill
9 that the quoted premium included that additional charge for motor club/roadside
10 coverage or that motor club/roadside coverage was an optional coverage.

11 10. On August 12, 1996, Mr. Hill and Mr. Sniegowski went to Settler's
12 Maryvale branch office and met with Ms. Losada to pay the required downpayment and
13 to sign the documents required for coverage. Mr. Hill was asked to sign a receipt which
14 stated that \$77.00 was being paid to Progressive Insurance Companies, but Ms.
15 Losada requested a total downpayment of \$102.00 from Mr. Hill. Ms. Losada then
16 informed Mr. Hill that he was "entitled" to roadside coverage. After Mr. Hill questioned
17 the difference between the \$77.00 being paid to Progressive and the \$102.00
18 downpayment requested from Settlers, Ms. Losada informed Mr. Hill that roadside
19 coverage had been included and the cost added to the insurance premium at the time
20 Mr. Hill requested a price quote from the 32nd Street Office.

21 11. Ms. Schreck and Ms. Losada credibly testified that all quotes being
22 generated from the 32nd Street Office by Mr. Armstrong included either a \$25.00 or
23 \$50.00 premium for motor club/ roadside coverage. The \$25.00 premium was for six-
24 months coverage and one year of roadside coverage costs \$50.00.

25 12. Ms. Schreck presented unrefuted testimony that during a meeting of
26 Settlers' staff on July 13, 1996, which was attended by Mr. Armstrong, Mr. Armstrong
27 informed Ms. Schreck that the customer service representatives were not to inform
28 prospective insureds that the motor club/roadside coverage was optional at the time the
29 insurance documents were being signed. The customer service representatives were
30

1 directed to show the potential insureds where to "X", initial or sign the various forms so
2 that the potential insureds chose to accept the motor club/roadside coverage.

3 13. The evidence established that the computer generated quote sheets
4 prepared by Mr. Armstrong indicated in the upper right hand corner the amount of
5 motor club/roadside coverage being charged by showing the dollar amount next to the
6 initials "RMC".

7 14. Ms. Schreck and Ms. Losada credibly testified that at all times material to
8 this matter the policy at Settlers was not to show the quote sheet to a potential insured.

9 The quote sheet was provided to the customer service representative to assist in the
10 preparation of the application and supporting documentation.

11 15. Ms. Losada credibly testified that after an insured paid the downpayment
12 for the insurance she would instruct the insured to sign the Roadside Motor Club
13 receipt and instructed potential insureds where to sign or initial to accept motor
14 club/roadside coverage. Only if the potential insured questioned inclusion of the
15 roadside coverage would Ms. Losada agree to eliminate that coverage from the
16 insured's policy.

17 16. Mr. Armstrong received a commission from Settlers for each motor
18 club/road side coverage policy which Mr. Armstrong sold to policyholders.

19 17. Mr. Armstrong did not prepare the insurance applications for the insureds,
20 but delegated that function to Settlers' customer service representative.

21 18. Mr. Armstrong argued that although he included motor club/roadside
22 coverage in price quotes without disclosing to potential insureds that motor
23 club/roadside service was included in the premium, he did not intend to conceal the
24 cost of the motor club/roadside coverage because the documentation presented to the
25 potential insureds by the customer service representatives provided potential insureds
26 an opportunity to decline motor club coverage.

27 19. Although the documentation did provide an opportunity for a potential
28 insured to decline motor club coverage, the evidence established that Mr. Armstrong
29 knew that the policy in effect at Settlers was not to have the customer service
30

1 representatives inform potential insureds that the motor club coverage was an optional
2 coverage. In fact, Mr. Armstrong participated in a July 13, 1996 meeting with customer
3 service representatives wherein Mr. Armstrong informed customer service
4 representatives not to inform potential insureds that the optional motor club coverage
5 was included in the downpayment. Additionally, the evidence presented established
6 that Settlers' customer service representatives presented the application and
7 supporting documentation to potential insureds so as to have the potential insured sign
8 or initial the space for acceptance of the optional motor club coverage. Furthermore, Mr.
9 Armstrong, as a licensed insurance agent, should have fully disclosed to potential
10 insureds, at the time of presenting the insurance price quote, that roadside coverage
11 was optional and that the automobile liability premium being quoted also included a
12 charge for optional motor club/roadside coverage. The amount of the roadside
13 coverage premium and the duration of the roadside policy should also have been
14 disclosed to prospective insureds by Mr. Armstrong.

15 CONCLUSIONS OF LAW

16 1. The Director has jurisdiction over this matter pursuant to A.R.S. § 20-161.

17 2. Mr. Armstrong's conduct as set forth above in the Findings of Facts,
18 constitutes a willful violation of, or willful noncompliance with, any provision of this title,
19 or any lawful rule, regulation or order of the director in violation of A.R.S. § 20-316
20 (A)(2).

21 3. Mr. Armstrong's conduct as set forth above in the Findings of Fact,
22 constitutes a conduct of affairs under the license showing Mr. Armstrong to be
23 incompetent or a source of injury and loss to, or repeated complaint by, the public in
24 violation of A.R.S. § 20-316(A)(7).

25 4. Mr. Armstrong's conduct as set forth above in the Findings of Fact, shows
26 that Mr. Armstrong directly or indirectly misrepresented coverage and , committed unfair
27 or deceptive acts or practices in the business of insurance in violation of A.R.S. §20-
28 442.

1 5. Mr. Armstrong's conduct as set forth above in the Findings of Fact,
2 constitutes the misrepresentation of the terms of any policy issued or to be issued or
3 the benefits or advantages promised in violation of A.R.S. § 20-443(1).

4 6. Based on the above Findings of Fact, the Director has the authority to
5 suspend, revoke, or refuse to renew Mr. Armstrong's insurance license, impose a civil
6 penalty upon Mr. Armstrong and/or order restitution, pursuant to A.R.S. § 20-316(A)
7 and 20-316 (C).

8 **RECOMMENDED ORDER**

9 Based upon the above, it is recommended that William Rolland Armstrong be
10 suspended for a period of five (5) days after the effective date of the Order entered in
11 this matter. It is further recommended that William Rolland Armstrong be required to
12 pay a civil penalty in the amount of \$1,000.00 within thirty (30) days of the effective date
13 of the Order entered in this matter.

14
15 Done this day, February 14, 1997.

16
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18 

19 _____
20 Richard N. Blair
21 Administrative Law Judge

22 Original transmitted by mail this
23 14 day of February, 1997, to:

24 John Greene
25 Director
26 Department of Insurance
27 2910 North 44th Street, #210
28 ATTN: Curvey Burton
29 Phoenix, AZ 85018-7256

30 By 