

MAY 1 1997

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

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In the Matter of:	)	
	)	No. 97A-079
RICHARD JAMES BAGGS,	)	
	)	ORDER SUMMARILY SUSPENDING
Respondent.	)	LICENSE AND NOTICE OF HEARING
_____	)	

The Arizona Department of Insurance (the "Department") alleges that Richard James Baggs, the Respondent, has violated the provisions of A.R.S. Title 20. In light of the serious nature of these allegations, the Director of Insurance ("Director") finds that the public health, safety and welfare imperatively requires emergency action, within the meaning of A.R.S. § 41-1064(C).

THEREFORE, IT IS ORDERED summarily suspending Respondent's Arizona insurance license, effective immediately, pending the proceedings commenced this date.

EFFECTIVE this 30<sup>th</sup> day of April, 1997.

*for* John A. Greene, DEP. DIR.  
JOHN A. GREENE, Director  
Arizona Department of Insurance

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165, 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 (the "Director"), or his duly designated representative, on the 23rd day of June,

1 1997, at 9:00 a.m., at Office of Administrative Hearings, 1700  
2 West Washington Street, Capitol Tower, West Wing, Suite 602,  
3 Phoenix, Arizona (the "Hearing").

4 Motions to continue this matter shall be made in writing to  
5 the Administrative Law Judge not less than five (5) business days  
6 prior to the date set for the hearing. A copy of any motion to  
7 continue shall be mailed or hand-delivered to the opposing party  
8 on the same date of filing with the Office of Administrative  
9 Hearings.

10 A.R.S. § 20-164 entitles any person affected by this Hearing  
11 to appear in person and by counsel, to be present during the  
12 giving of all evidence, to have a reasonable opportunity to  
13 inspect all documentary evidence, to examine witnesses, to present  
14 evidence in support of his/her interests, and to have subpoenas  
15 issued by the Administrative Law Judge to compel attendance of  
16 witnesses and production of evidence on the person's behalf.

17 Questions concerning issues raised in this Notice of Hearing  
18 should be directed to Assistant Attorney General Michael J. De La  
19 Cruz (602) 542-7722, 1275 West Washington, Phoenix, Arizona  
20 85007.

21 NOTICE OF APPLICABLE RULES

22 On January 23, 1992, the Arizona Department of Insurance  
23 adopted A.A.C. R20-6-101 through R20-6-115, setting forth the  
24 rules of practice and procedure applicable in contested cases  
25 before the Director of Insurance. The hearing will be conducted  
26 pursuant to these rules.

1           PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN  
2 ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND  
3 SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT  
4 ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE  
5 RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR  
6 DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT  
7 DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN  
8 ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED,  
9 RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM  
10 THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE,  
11 INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR RENEWAL  
12 OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER  
13 RESTITUTION TO ANY PARTY INJURED.

14           PERSONS WITH DISABILITIES MAY REQUEST REASONABLE  
15 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR  
16 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR  
17 ACCOMMODATIONS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME  
18 TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS,  
19 PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

20           The Department alleges:

21           1. Respondent Richard James Baggs ("Respondent") currently  
22 holds license number 33585 to transact business as a life and  
23 disability insurance agent. That license is due to expire  
24 September 30, 1997.

25           2. On or about October 22, 1996, the Pima County Superior  
26 Court entered a Judgment in State of Arizona v. Richard James

1 Baggs, Case No. CR-54091, convicting Respondent of Theft by  
2 Conversion, a Class 4 Felony, in violation of A.R.S. § 13-  
3 1802(A)(2) and (C). The Court suspended imposition of sentence  
4 and placed Respondent on four years supervised probation. The  
5 Court also ordered Respondent to pay restitution in the amount of  
6 \$132,021.00 to Great Western Insurance Company at a rate of \$150  
7 per month commencing December 1, 1996.

8       3. Respondent has a record of dishonesty in business or  
9 financial matters in violation of A.R.S. § 20-316(A)(1) together  
10 with A.R.S. § 20-290 (B)(2).

11       4. Respondent's conduct alleged above constitutes a wilful  
12 violation of, or a wilful noncompliance with, any provision of  
13 this title, or any lawful rule, regulation or order of the  
14 director, in violation of A.R.S. § 20-316(A)(2).

15       5. Respondent's conduct and actions constitute the  
16 misappropriation or conversion to his own use or illegal  
17 withholding of monies belonging to policyholders, insurers,  
18 beneficiaries or others and received in or during the conduct of  
19 business under the license or through its use, in violation of  
20 A.R.S. § 20-316(A)(4).

21       6. Respondent's conduct alleged above constitutes a  
22 conviction by final judgment of a felony involving moral  
23 turpitude, in violation of A.R.S. § 20-316(A)(6).

24       7. Respondent's conduct and actions constitute a conduct  
25 of affairs under the license, showing the licensee to be  
26 incompetent or a source of injury and loss to, or repeated

1 complaint by, the public or any insurer, within the meaning of  
2 A.R.S. § 20-316(A)(7).

3 Grounds exist for the Director to suspend, revoke or refuse  
4 to renew Respondent's insurance license, impose a civil penalty  
5 upon Respondent and/or order restitution, pursuant to A.R.S. § 20-  
6 316(A) and 20-316(C).

7 WHEREFORE, if after hearing, the Director finds the grounds  
8 alleged above, the Director may suspend, revoke or refuse to renew  
9 Respondent's insurance license or order restitution, pursuant to  
10 A.R.S. § 20-316(A) and 20-316(C).

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

21 Pursuant to A.R.S. § 41-1092.01, your hearing will be  
22 conducted through the Office of Administrative Hearings, an  
23 independent agency. Enclosed is a copy of the procedures to be  
24 followed.

25 ...

26 ...

1 DATED this 30<sup>th</sup> day of April 1997.

2  
3  
4 for Charles Cohen, DEP. DIR.  
5 JOHN A. GREENE, Director  
6 Arizona Department of Insurance

7 COPY of the foregoing mailed  
8 this 1st day of May 1997 to:

9 Office of Administrative Hearings  
10 1700 West Washington, Suite 602  
11 Phoenix, AZ 85007

12 Michael J. De La Cruz  
13 Assistant Attorney General  
14 1275 West Washington Street  
15 Phoenix, Arizona 85007  
16 Attorney for the Department

17 Charles R. Cohen, Deputy Director  
18 John Gagne, Assistant Director  
19 M. Ellen Miller, Investigator  
20 Maureen Catalioto, Supervisor  
21 Department of Insurance  
22 2910 North 44th Street, Suite 210  
23 Phoenix, Arizona 85018

24 Richard James Baggs  
25 4828 East Grant Road, #46  
26 Tucson, Arizona 85712  
Respondent

Richard James Baggs  
P.O. Box 64074  
Tucson, Arizona 85728  
Respondent

Mario Guevara  
Office of Administrative Hearings  
1700 West Washington, Suite 602  
Phoenix, Arizona 85005

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 notices or documents concerning this matter other than the director's final order. Information about the status of this matter, including whether the hearing

1 date has been changed, may be obtained by contacting the  
2 Department of Insurance at (602) 912-8454 or the Assistant  
3 Attorney General identified above, at (602) 542-7722.

3 Great Western Insurance Company  
4 3408 Washington Boulevard  
5 Ogden, Utah 84401

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