STATE OF ARIZONA
FILED

AUG 1 1 1997

DEPT. OF INSURANCE
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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of: **EUGENE WALTER CAMARA, License No. 35263, and CBIA, INC., License No. 16414,** Respondents.	Docket No. 97A-134-INS **ORDER SUMMARILY SUSPENDING LICENSES AND NOTICE OF HEARING**

The Arizona Department of Insurance (the "Department") alleges below that Eugene Walter Camara and CBIA, Inc. ("Respondents") have violated the provisions of A.R.S. Title 20. In light of the serious nature of these allegations, the Director of Insurance (the "Director") finds that the public health, safety and welfare imperatively require emergency action, within the meaning of A.R.S. §41-1064(C).

THEREFORE, IT IS ORDERED summarily suspending the Arizona insurance licenses held by Respondents, effective immediately, pending the proceedings for revocation commenced this date.

EFFECTIVE this 8 day of August, 1997.

John A. Greene

JOHN A. GREENE
Director of Insurance

PLEASE TAKE NOTICE, that pursuant to the provisions of A.R.S. §§20-161 through and including 20-165 and A.R.S. Title 41, the above captioned matter will be heard before the Director or the Director's duly designated representative, on the 8th day of September, 1997 at 9:00 a.m., at the Office of Administrative Hearings, 1700 West Washington, 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 business days before the date set for the hearing. A copy of any motion to continue shall be mailed or hand delivered to the opposing party or attorney on the same date of filing with the Arizona Department of Insurance.

A.R.S. §20-164(B) entitles any person 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 all witnesses, to present supporting evidence, and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence. A person may be represented by and through an attorney licensed to practice law in the State of Arizona or, if the party is an insurance company, it may be represented by a corporate officer to present testimony and give evidence, pursuant to A.R.S. §20-161(B).

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

Questions concerning issued raised in this Notice of Hearing should be directed to Assistant Attorney General Shelby L. Cuevas, (602) 542-3702, 1275 West Washington, Phoenix, Arizona 85007.

NOTICE OF APPLICABLE RULES

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

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

The Department alleges:

1. Respondent Camara holds, and at all material times held, Arizona license number 35263 to transact business as a property and casualty insurance agent and broker. The license expires on December 31, 1998.

2. Respondent CBIA holds, and at all material times held, Arizona license number 16414 to transact business as a property and casualty agent and broker. The license expires June 30, 1998.

3. New Hampshire Insurance Company ("New Hampshire") is a New Hampshire corporation authorized to transact insurance business in the State of Arizona. New Hampshire has a general agency agreement with North American Warranty Administrators, Inc. ("North America"), an

Illinois corporation, to produce mechanical breakdown and warranty insurance business throughout the United States, including Arizona.

4. Respondents Camara and CBIA had an agency agreement with North American to produce mechanical breakdown and warranty insurance for motor vehicles in the State of Arizona.

5. New Hampshire filed a civil suit against Respondents Camara and CBIA in Maricopa County Superior Court, No. CV97-12141. On July 10, 1997, the court entered an Order Granting Preliminary Injunction against Respondents. A copy of the Order is attached hereto and incorporated herein by this reference. Respondents are enjoined from, among other things, purporting to act as agents or authorized representatives of New Hampshire.

6. At least three (3) Arizona residents paid premiums either to Respondent Camara or Respondent CBI for purposes of obtaining mechanical reimbursement and warranty coverage from New Hampshire and did not receive said coverage or have not been paid refunds of unearned premiums previously paid by New Hampshire to Respondents to be paid to policyholders who have canceled New Hampshire policies.

7. On May 13, 1997, the Department issued an Order to Appear to Respondents for May 27, 1997, at 10:00 a.m., pursuant to A.R.S. §§20-142 and 20-160. The Order was received and signed for by Deborah Camara, Respondent Camara's wife, on May 14, 1997.

8. Respondents failed to appear before the Department on May 27, 1997.

9. Respondents' conduct, as alleged above, constitutes the wilful violation of or noncompliance with any provision of Title 20, within the meaning of A.R.S. §20-316(A)(2).

10. Respondents' conduct, as alleged above, constitutes misappropriation or conversion to their own use or illegal withholding of monies belonging to insurers and others and received in or during

the conduct of business under the licenses or through its use within the meaning of A.R.S. §20-316(A)(4).

11. Respondents' conduct, as alleged above, constitutes a conduct of affairs under the licenses showing the licensees to be incompetent or a source of injury and loss to the public or any insurer within the meaning of A.R.S. §20-316(A)(7).

12. Respondents' conduct as alleged above constitutes the diversion of the monies of an insurer or other person, within the meaning of A.R.S. §20-463(A)(4)(a) and (b).

WHEREFORE, if after hearing, the Director finds the grounds alleged above, the Director may suspend, revoke or refuse to renew Respondents' insurance licenses or order restitution, or order Respondents to pay civil penalties pursuant to A.R.S. §§ 20-316 and 20-456.

Pursuant to A.R.S. §20-150, the Director delegates the authority vested in the Director of Insurance of the 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 the 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 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, your hearing will be conducted through the Office of Administrative Hearings, an independent agency. Enclosed is a copy of the procedures to be followed.

Persons with disabilities may request reasonable accommodations, such as interpreters, alternative formats or assistance with physical accessibility, by contacting the Office of Administrative Hearings at

(602) 542-9826. Requests should be made as early as possible to allow time to arrange the accommodations.

DATED this 8 day of August, 1997.

JOHN A. GREENE
Director of Insurance

COPIES of the foregoing mailed/delivered this 11th day of August, 1997, to:

Eugene Walter Camara
28072 N. 110th Place
Scottsdale, Arizona 85255

CBIA, Inc.
555 W. 2nd Avenue, #B-2
Mesa, Arizona 85210

Shelby L. Cuevas
Assistant Attorney General
Consumer Protection & Advocacy Section
1275 West Washington
Phoenix, Arizona 85007

Lewis Kowal, Administrative Law Judge
Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85005

Charles R. Cohen, Deputy Director
John Gagne, Assistant Director
Maureen Catalioto, Licensing Supervisor
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018-7256

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 date has been changed, may be obtained by contacting the Department of Insurance at (602) 912-8454 or the Assistant Attorney General identified above, at (602) 542-3702.

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COPY FOR CERTIFICATION

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Attorneys for Plaintiff

FILED
JUL 10 1997 9:40 am
JUDITH ALLEN, Clerk
By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

NEW HAMPSHIRE INSURANCE COMPANY, A New Hampshire corporation, Plaintiff, v. EUGENE WALTER CAMARA and DEBORAH CAMARA, husband and wife; CBIA, INC., an Arizona corporation, JOHN DOES I-X; JANE DOES I-X, Defendants.	NO. CV97-12141 ORDER GRANTING PRELIMINARY INJUNCTION (Assigned to the Hon. B. Michael Dann)

This matter having come on for hearing on July 10, 1997, before this Court, the Honorable B. Michael Dann presiding, J. Michael Low and Christy A. Chism appearing for the Petitioner, New Hampshire Insurance Company and Defendant, CBIA, Inc. having been served, but not appearing at the order to show cause hearing, and based upon the specific facts shown by Affidavit, Verified Complaint, and the evidence presented at the order to show cause hearing, that immediate irreparable injury, loss, or damage will result to the Petitioner unless a Preliminary Injunction is entered, the Court finds and orders as follows:

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ATTORNEYS AT LAW
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I. FINDINGS

1. Defendants collected premiums from Arizona residents for the purpose of obtaining policies issued by New Hampshire Insurance Company for mechanical breakdown and warranty insurance.

2. Eugene Walter Camara an officer, director and shareholder of CBIA, Inc. and CBIA, Inc. failed to properly account for all premiums collected on policies issued by New Hampshire Insurance Company and failed to remit the same to North American Warranty Administrators.

3. At least three (3) Arizona residents paid premiums to either CBIA, Inc. or to Eugene Walter Camara for purposes of obtaining mechanical reimbursement and warranty coverage from New Hampshire Insurance Company and did not receive said coverage or have not been paid refunds of unearned premiums previously paid by New Hampshire Insurance Company to CBIA, Inc. and Eugene Walter Camara to be paid to policyholders who have canceled New Hampshire Insurance Company policies.

4. On September 13, 1996, Mr. James Robles purchased a policy issued by New Hampshire Insurance Company through CBIA, Inc.

5. Mr. Robles requested a cancellation and full refund on January 7, 1997.

6. CBIA, Inc. received the refund check for One Thousand Three Hundred Thirty-Eight Dollars and Thirteen Cents ($1,338.13) from North American Warranty Services on March 24, 1997 and the check was cashed by CBIA, Inc. on April 4, 1997.

7. Mr. Robles never received the refund of the premium.

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8. On March 7, 1997, Mr. Lambert Girmscheid mailed a check for Five Hundred Thirty-Three Dollars and Forty Cents ($533.40) to CBIA, Inc. for the purpose of obtaining a mechanical breakdown insurance policy.

9. On March 13, 1997, CBIA, Inc. cashed Mr. Girmscheid's check.

10. North American Warranty Services never received an application or premium payment for Mr. Girmscheid.

11. Neither Mr. Girmscheid nor New Hampshire Insurance Company ever received the Five Hundred Thirty-Three Dollars and Forty Cents ($533.40).

12. On December 10, 1996, Mr. Allen R. Ernst requested cancellation of his mechanical breakdown insurance policy.

13. On February 18, 1997, North American Warranty Services sent a refund check of Two Hundred Forty-Five Dollars and Twenty-Seven Cents ($245.27) to CBIA, Inc., to be refunded to Mr. Ernst.

14. Mr. Ernst never received the refund of premiums.

15. On May 13, 1997, the Arizona Department of Insurance issued an Order to Appear to Eugene Camara and CBIA, Inc. for May 27, 1997 at 10:00 a.m.

16. The Order was received and signed for by Deborah Camara on May 14, 1997.

17. Eugene Camara and CBIA, Inc. failed to appear before the Arizona Department of Insurance on May 27, 1997, pursuant to the Order.

18. Defendants continue to possess property of New Hampshire Insurance Company including insurance policies, endorsements, forms, manuals, solicitation materials and other

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documents that are necessary to the transaction of mechanical reimbursement and warranty insurance.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. Defendants CBIA, Inc., its officers, agents and employees are enjoined from the transfer, diversion or disposal of any property or premiums due to New Hampshire Insurance Company by Defendants;

2. Said Defendants are enjoined from withholding from Petitioner any funds received by or held by Defendants, wherever located, which funds are attributable to premiums paid to or received by Defendants for New Hampshire Insurance Company insurance policies;

3. Said Defendants are enjoined from transferring, disposing of, sequestering or causing to be removed from this jurisdiction any premiums due or property of New Hampshire Insurance Company; and

4. Said Defendants are enjoined from purporting to act as agents or authorized representatives of New Hampshire Insurance Company.

DONE IN OPEN COURT at 9:35 o'clock a.m this 10th day of July, 1997.

B. Michael Dann, Judge of the Superior Court

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