STATE OF ARIZONA
FILED

AUG 13 1998

DEPT. OF INSURANCE
BY

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of: TRANSPORTATION & SPECIALTY MARKETPLACE, INC., dba T.S.M. AGENCY; JUDITH A. GADEN; ERNIE W. GARRISON; ANTHONY M. GARRISON; WILLIAM R. BURROLA; Respondents.	No. 97A-217-INS CONSENT ORDER

An Order Summarily Suspending Licenses and Notice of Hearing ("Notice") was issued by the Director ("Director") of the Arizona Department of Insurance (the "Department") on December 2, 1997, wherein the Department made certain allegations of violations of A.R.S. Title 20 committed by Respondent Judith A. Gaden ("Respondent"). Respondent received a copy of the Notice and requested a hearing. Respondent has been advised of her right to a hearing in this matter, which she waives.

On January 20, 1998, a default order ("Default Order") was entered by the Director in this matter, a copy of which is attached and incorporated herein by this reference. Other than as specifically stated in this Consent Order, Respondent neither admits nor denies any of the findings contained in the Default Order, nor does Respondent admit or deny any allegations contained in the Notice, which is part of, and attached to, the Default Order. Respondent, however, admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. With respect to paragraph 1 of the Notice, Respondent neither admits nor denies any of the allegations.

2. With respect to paragraph 2 of the Notice, Respondent admits that she currently holds, and at all material times held, a property and casualty insurance agent license (No. 617247), and also admits that, to date, that license is still subject to an order of summary suspension.

3. With respect to paragraph 3 of the Notice, Respondent neither admits nor denies any of the allegations.

4. With respect to paragraph 4 of the Notice, Respondent admits that she was formerly a corporate officer of Transportation & Specialty Marketplace, Inc. dba T.S.M. Agency ("TSMA").

5. With respect to paragraph 5 of the Notice, Respondent neither admits nor denies any of the allegations.

6. With respect to paragraph 6 of the Notice, Respondent neither admits nor denies any of the allegations.

7. With respect to paragraphs 7, 31 and 52 of the Notice, Respondent neither admits nor denies any of the allegations.

8. With respect to paragraphs 8,9,32,33,53 and 54 of the Notice, Respondent admits only that she secured United States Post Office ("USPO") mail boxes, but neither admits nor denies any of the remaining allegations in said paragraphs.

9. With respect to paragraphs 10, 34 and 55 of the Notice, Respondent admits only that she was listed as being authorized to accept mail addressed to the referenced USPO mail boxes, but

neither admits nor denies any of the remaining allegations in said paragraphs.

10. With respect to paragraphs 11, 35 and 56 of the Notice, Respondent neither admits nor denies any of the allegations.

11. With respect to paragraphs 12, 36 and 57 of the Notice, Respondent neither admits nor denies any of the allegations.

12. With respect to paragraphs 13 of the Notice, Respondent neither admits nor denies any of the allegations.

13. With respect to paragraphs 14, 37 and 58 of the Notice, Respondent neither admits nor denies any of the allegations.

14. With respect to paragraphs 15, 38 and 59 of the Notice, Respondent admits only that she was an authorized signer for the TSMA bank account, but neither admits nor denies any of the remaining allegations in said paragraphs.

15. With respect to paragraphs 16, 39 and 60 of the Notice, Respondent neither admits nor denies any of the allegations.

16. With respect to paragraphs 17, 40 and 61 of the Notice, Respondent neither admits nor denies any of the allegations.

17. With respect to paragraphs 18, 41 and 62 of the Notice, Respondent neither admits nor denies any of the allegations.

18. With respect to paragraph 19 of the Notice, Respondent admits that on or about September 24 and November 4, 1996, SunCo Premium Finance Company ("SunCo") received partial refunds of its premium finance monies from Burnett Watkins in an amount totaling $160,000.

19. With respect to paragraph 20 of the Notice, Respondent neither admits nor denies any of the allegations.

20. With respect to paragraphs 21, 42 and 63 of the Notice, Respondent neither admits nor denies any of the allegations.

21. With respect to paragraphs 22, 43 and 64 of the Notice, Respondent neither admits nor denies any of the allegations.

22. With respect to paragraphs 23, 44 and 65 of the Notice, Respondent neither admits nor denies any of the allegations.

CONCLUSIONS OF LAW

1. The Department has jurisdiction in this matter.

2. Respondent's conduct alleged above constitutes a violation of A.R.S. § 20-316(A)(7).

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

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Respondent Gaden's insurance license is suspended for a period of 15 days effective upon entry of this Order.

DATED this 12 day of August, 1998.

JOHN A. GREENE, Director
Arizona Department of Insurance

1

2 CONSENT TO ORDER

3 1. Respondent has reviewed the attached Order.

4 2. Respondent is aware of her right to a hearing at which
5 hearing she may be represented by counsel, present evidence and
6 cross-examine witnesses. For reasons of expedience and judicial
7 economy, Respondent waives her right to demand a public hearing
8 and to seek judicial review of this Consent Order.

9 3. Respondent admits the jurisdiction of the Director of
10 Insurance, State of Arizona, admits the foregoing Findings of
11 Fact, consents to the entry of the foregoing Conclusions of Law
12 and consents to the entry of this Order.

13 4. Respondent states that no promise of any kind or nature
14 has been made to induce her to enter into this Order and that she
15 has entered into this order voluntarily.

16 5. Respondent acknowledges that the acceptance of this
17 Order by the Director of Insurance, State of Arizona, is solely to
18 settle this matter against her and does not preclude any other
19 agency or officer of this state or subdivision from instituting
20 other civil or criminal proceedings as may be appropriate now or
21 in the future.

22

23 Date 5/14/98 Judith A. Gaden
JUDITH A. GADEN, Respondent

24

25 ...

26 ...

COPY of the foregoing
mailed this 13th day of
August, 1998 to:

Lewis D. Kowal
Administrative Law Judge
Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, AZ 85007

Michael J. De La Cruz
Assistant Attorney General
1275 West Washington
Phoenix, AZ 85007
Attorney for the Department

Charles R. Cohen, Deputy Director
Gregory Y. Harris, Executive Assistant Director
John Gagne, Assistant Director
Arnold Sniegowski, Investigations Supervisor
Donna Futrell, Investigator
Maureen Catalioto, Supervisor
Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Mark A. Mahoney, Esq.
301 E. Bethany Home Rd.
Suite C-190
Phoenix, AZ 85012
Attorney for Respondent Gaden

Century National Insurance Company
P.O. Box 3999
North Hollywood, CA 91609

Cursey Burton

#19509 [CPA97-192]

STATE OF ARIZONA
FILED
JAN 20 1998
DEPT. OF INSURANCE
BY

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of: TRANSPORTATION & SPECIALTY MARKETPLACE, INC., dba T.S.M. AGENCY; JUDITH A. GADEN; ERNIE W. GARRISON; ANTHONY M. GARRISON; WILLIAM R. BURROLA Respondents.	No. 97A-217-INS FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On December 2, 1997, the Arizona Department of Insurance (the "Department") issued an Order Summarily Suspending Licenses and Notice of Hearing ("Notice") in this matter, a copy of which is attached and incorporated herein by this reference. The Notice required Respondents Transportation Specialty & Marketplace, Inc., dba T.S.M. Agency ("TSMA"), Ernie W. Garrison, Anthony M. Garrison and William R. Burrola ("Respondents") to provide written answers to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondents have failed to file answers. On January 13, 1998, counsel for the Department filed a Request for Default and proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondents have not responded to the Department's request. Pursuant to A.A.C. R20-6-106(D), a party that fails to file an answer within the time provided shall be deemed to be in default and one or more of the allegations in the Notice of Hearing may be deemed to be admitted.

FINDINGS OF FACT

1. Notice was proper.

2. Respondents TSMA, Ernie W. Garrison, Anthony M. Garrison and William R. Burrola are in default.

3. The allegations in the Notice of Hearing are deemed admitted.

CONCLUSIONS OF LAW

1. The conduct alleged in the Notice constitutes grounds for the Director to suspend, revoke or refuse to renew Respondents' licenses to transact insurance in Arizona, pursuant to A.R.S. § 20-316(A).

2. The conduct alleged in the Notice constitutes grounds for the Director to impose a civil penalty pursuant to A.R.S. §§ 20-316(C) and 20-456(B).

ORDER

IT IS ORDERED:

1. All insurance licenses held by Respondents TSMA, Ernie W. Garrison, Anthony M. Garrison, and William R. Burrola are revoked effective upon the issuance of this Order.

2. Respondents shall pay a civil penalty in the following amounts to the Director, payable upon entry of this Order for remission to the State Treasurer for deposit in the State General Fund:

	Respondent	Civil Penalty Amount
a.	TSMA	$16,500.00
b.	Ernie W. Garrison	$16.500.00
c.	Anthony M. Garrison	$ 4,100.00
d.	William R. Burrola	$ 6,150.00

DATED this 20 day of January, 1998.

John A. Greene, Director
Arizona Department of Insurance

1 COPY of the foregoing mailed this
20th day of January, 1998, to:
2
Administrative Law Judge
3 Office of Administrative Hearings
1700 West Washington, Suite 602
4 Phoenix, Arizona 85007

5 Michael J. De La Cruz
Assistant Attorney General
6 Consumer Protection and Advocacy Section
1275 West Washington
7 Phoenix, Arizona 85007

8 Charles R. Cohen, Deputy Director
Gregory Y. Harris, Executive Assistant Director
9 John Gagne, Assistant Director
Arnie Sniegowski, Investigations Supervisor
10 Donna D. Futrell, Investigator
Maureen Catalioto, Licensing Supervisor
11 Arizona Department of Insurance
2910 North 44th Street, Suite 210
12 Phoenix, Arizona 85018

13 Transportation & Specialty Marketplace Agency
15612 N. 32nd Street, #5
14 Phoenix, AZ 85032

15 Ernie W. Garrison
15612 N. 32nd Street, #5
16 Phoenix, AZ 85032

17 Ernie W. Garrison
908 W. Flynn Lane
18 Phoenix, AZ 85013

19 Anthony M. Garrison
World Marketing Alliance
20 15612 N. 32nd Street, #5
Phoenix, AZ 85032
21
Anthony M. Garrison
22 3723 W. Camino Real
Glendale, AZ 85310
23
William R. Burrola
24 15612 N. 32nd Street, #5
Phoenix, AZ 85032
25

26 ...

William R. Burrola
18807 N. 67th Drive
Glendale, AZ 85308

William R. Burrola
3202 E. Greenway Road
Suite 1307
Phoenix, AZ 85032

Century National Insurance Company
P.O. Box 3999
North Hollywood, CA 91609

Victoria Fire & Casualty
5915 Landerbrook Drive
Cleveland, OH 44124-4068

Fortis Benefits I.C.
Compliance Dept.
P.O. Box 419052
Kansas City, MO 64141-6052

Esther David

STATE OF ARIZONA
FILED

DEC 2 1997

DEPT. OF INSURANCE
BY [illegible]

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of: TRANSPORTATION & SPECIALTY MARKETPLACE, INC., dba T.S.M. AGENCY; JUDITH A. GADEN; ERNIE W. GARRISON; ANTHONY M. GARRISON; WILLIAM R. BURROLA; Respondents.	No. 97A-217-INS ORDER SUMMARILY SUSPENDING LICENSES AND NOTICE OF HEARING

The Arizona Department of Insurance (the "Department") alleges below that Transportation & Specialty Marketplace, Inc., dba T.S.M. Agency, Judith A. Gaden, Ernie W. Garrison, Anthony M. Garrison and William R. Burrola ("Respondents"), have 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 the Arizona insurance licenses held by Respondents, effective immediately, pending the proceedings for revocation commenced this date.

EFFECTIVE this 25 day of November, 1997.

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 26th & 27th days of January, 1998, at 9:00 a.m., at Office of Administrative Hearings, 1700 West Washington Street, Capitol Tower, West Wing, 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 (5) business days prior to the date set for the hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

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 witnesses, to present supporting evidence and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

If Respondents are represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, if Respondent is an insurer, it may be represented by a corporate officer, 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 issues raised in this Notice of Hearing should be directed to Assistant Attorney General Michael J. De La Cruz (602) 542-7722, 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 these 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 ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENTS SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING SUSPENSION, REVOCATION, DENIAL OF

A LICENSE, OR RENEWAL OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER RESTITUTION TO ANY PARTY INJURED.

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

The Department alleges:

1. Respondent Transportation & Specialty Marketplace, Inc., dba T.S.M. Agency ("TSMA") is currently, and was at all material times, licensed as a property and casualty insurance agent (License No. 34041). That license is due to expire September 30, 1998. TSMA is also a duly authorized Arizona corporation.

2. Respondent Judith A. Gaden ("Gaden") is currently, and was at all material times, licensed as a property and casualty insurance agent (License No. 617247). That license is due to expire December 31, 1998.

3. Respondent Ernie W. Garrison ("E. Garrison") is currently, and was at all material times, licensed as a life and disability insurance agent and a property and casualty insurance agent and broker (License No. 256152). E. Garrison's life and disability insurance agent license is due to expire July 31, 1999, and his property and casualty insurance agent and broker licenses expire July 31, 1998.

4. E. Garrison and Gaden are corporate officers of TSMA and are authorized to exercise the powers of TSMA's license. Ernie Garrison is President and Gaden is Vice-President and Secretary of TSMA.

5. Respondent Anthony M. Garrison ("A. Garrison") is currently, and was at all material times, licensed as a life and disability and property and casualty insurance agent (License No. 784365). A. Garrison's life and disability insurance agent license expires September 30, 1999 and his property and casualty insurance agent license is due to expire September 30, 1998. At all times material to this matter, A. Garrison was listed as a director and licensed agent of TSMA, and was authorized to exercise the powers of TSMA's license.

6. Respondent William R. Burrola ("Burrola") is currently licensed as a property and casualty insurance agent (License No. 30748). That license is due to expire January 31, 1998. Burrola is currently, and was at all material times, acting as a licensed agent on behalf of TSMA.

COUNT I

7. Between July 19, 1995 and March 16, 1996, Respondents TSMA and/or E. Garrison prepared and completed 42 insurance premium finance contracts through SunCo Premium Finance Company ("SunCo") for commercial auto insurance. The premium finance contracts were purportedly made on behalf of 42 different borrowers/insureds seeking coverage through various insurers.

8. Respondents TSMA and/or E. Garrison misrepresented the existence and/or identity of the borrowers/insureds listed on the SunCo premium finance contracts. Respondents completed premium finance contracts on behalf of nonexistent clients and either used or arranged for the use of bogus mailing addresses for receipt of premium payment coupon booklets.

9. Respondents TSMA and/or E. Garrison represented to SunCo in the premium finance contracts that the borrower/insured could be reached at the mailing address provided in the contract. However, many of the mailing addresses provided to SunCo by Respondents TSMA and/or E. Garrison included:

a. Retail mail drop sites such as "Mail n Ship" shops.

b. United States Post Office ("USPO") mail boxes secured by Respondents Gaden and A. Garrison.

c. Current residence address of Respondent E. Garrison.

d. Former residence address of Respondent Gaden and Burnett W. Watkins ("Watkins").

e. Previous residence address of Watkins with fictitious borrower/insured name of "Watkins Construction."

f. Addresses of relatives of both Gaden and Watkins and address of former spouse of Watkins.

Upon information and belief, Watkins and Gaden are husband and wife.

10. The borrower/insured listed on the premium finance contract was typically a fictitious business entity not located at the mailing address provided by Respondents TSMA and/or E. Garrison. Also, Respondents had access to the mail received at each address described above.

11. In reliance upon the information provided in the premium finance contracts, SunCo mailed payment coupon booklets to the addresses provided by Respondents TSMA and/or E. Garrison in the premium finance contracts.

12. SunCo did not receive any monthly payments on 13 of the 42 premium finance contracts written by TSMA and/or E. Garrison on its behalf. SunCo received only one payment on six of the remaining 29 premium finance contracts written by TSMA and/or E. Garrison on its behalf. The monthly premium finance payments SunCo did receive were paid via either a money order or a check written from TSMA's Bank Account.

13. SunCo granted TSMA and its authorized agents the authority to complete the above-described premium finance contracts and to also issue premium finance drafts payable by SunCo to various insurers to effect coverage on behalf of a borrower/insured. This "drafting authority" from SunCo has a limit of $5,000 per each premium finance contract.

14. Between July 20, 1995 and March 18, 1996, TSMA and E. Garrison completed premium finance drafts ("drafts") as described above on behalf of fictitious insureds. In completing the drafts, TSMA and E. Garrison would sign the drafts and either assign the fictitious insured a bogus insurance policy number or indicate that the policy number would follow. Additional premiums were financed and drafted through SunCo by TSMA and E. Garrison as endorsements/add-on's to five of the 42 existing premium finance contracts.

15. In total, TSMA and E. Garrison completed and signed 48 drafts. Each draft was deposited into TSMA's business deposit account with Bank of America, Account #005949012 ("TSMA's Bank Account"). Respondents E. Garrison and Gaden are the authorized signers for the TSMA Bank Account.

16. TSMA and/or E. Garrison failed to complete and/or forward any applications for insurance to the various insurers.

17. Respondents TSMA, E. Garrison and Gaden failed to forward any of the financed premium monies to the various insurers listed on the drafts, but instead misappropriated the monies and/or converted the funds to their own use. TSMA and/or E. Garrison also failed to forward any of the down payments listed on the premium finance contracts.

18. No policy or coverage was provided by the various insurers in connection with the above-mentioned premium finance contracts prepared and completed by TSMA and/or E. Garrison.

19. On or about September 24 and November 4, 1996, SunCo received partial refunds of its premium finance monies from Respondent Gaden and Watkins in an amount totaling $160,000.

20. On or about February 28, 1997, SunCo filed a complaint with the Department.

21. On or about March 10, 1997, the Department issued an Order to Appear for Examination Under Oath ("EUO") to Respondent E. Garrison with an appearance date of March 18, 1997. The Order to Appear for EUO was sent by certified mail, return receipt requested, and service was in compliance with A.R.S. § 20-151.

However, E. Garrison failed to appear for the scheduled EUO. At the request of E. Garrison, the Department rescheduled the EUO for March 20, 1997, but E. Garrison again failed to appear.

22. On or about March 19, 1997, SunCo received refunds of its premium finance monies from Respondents TSMA and Watkins in an amount totaling $107,000.

23. On or about March 31, 1997, the Department was contacted by Bill Downey ("Downey") who stated he represented E. Garrison as his attorney. At the request of Downey, the Department again rescheduled the EUO for April 3, 1997, but E. Garrison again failed to appear.

VIOLATIONS

24. Respondents TSMA, Gaden, E. Garrison and A. Garrison's conduct alleged above constitutes a wilful violation of, or a wilful noncompliance with, any provision of this title, or any lawful rule, regulation or order of the director, in violation of A.R.S. § 20-316(A)(2).

25. Respondents TSMA, Gaden and E. Garrison's conduct alleged above constitutes the misappropriation or conversion to their own use or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others and received in or during the conduct of business under the licenses or through their use, in violation of A.R.S. § 20-316(A)(4).

26. Respondents TSMA, Gaden, E. Garrison and A. Garrison's conduct alleged above constitutes a conduct of affairs under the licenses showing the licensees to be incompetent or a source of

injury and loss to, or repeated complaint by, the public or any insurer, within the meaning of A.R.S. § 20-316(A)(7).

27. Respondents TSMA, Gaden, E. Garrison and A. Garrison's conduct alleged above constitutes the making, or causing, directly or indirectly, to be made any statements containing any assertions, representations, or statements with respect to the business of insurance, which are untrue, deceptive or misleading, within the meaning of A.R.S. § 20-444(A).

28. Respondents TSMA, Gaden, E. Garrison and A. Garrison's conduct alleged above constitutes an act of fraud in that Respondents knowingly and with intent to defraud diverted or attempted or conspired to divert the monies of an insurer in connection with the transaction of insurance within the meaning of A.R.S. § 20-463(A)(4).

29. The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers pursuant to A.R.S. § 20-316(B).

30. Grounds exist for the Director to suspend, revoke or refuse to renew Respondents TSMA, Gaden, E. Garrison and A. Garrisons' insurance licenses, impose a civil penalty upon Respondents and/or order restitution, pursuant to A.R.S. § 20-316(A), 20-316(C) and 20-456(B).

...

...

...

COUNT II

31. Between July 18, 1995 and November 22, 1995, Respondents TSMA and/or A. Garrison prepared and completed four insurance premium finance contracts through SunCo for commercial auto insurance. The premium finance contracts were purportedly made on behalf of four different borrowers/insureds seeking coverage through various insurers.

32. Respondents TSMA and/or A. Garrison misrepresented the existence and/or identity of the borrowers/insureds listed on the SunCo premium finance contracts. Respondents TSMA and/or A. Garrison completed premium finance contracts on behalf of nonexistent clients and either used or arranged for the use of bogus mailing addresses for receipt of premium payment coupon booklets.

33. Respondents TSMA and/or A. Garrison represented to SunCo in the premium finance contracts that the borrower/insured could be reached at the mailing address provided in the contract. However, the mailing addresses provided to SunCo by Respondents TSMA and/or A. Garrison included:

a. Retail mail drop sites such as "Mail n Ship" shops.

b. United States Post Office ("USPO") mail boxes secured by Respondent A. Garrison.

c. Previous residence address of Respondent A. Garrison.

34. The borrower/insured listed on the premium finance contract was typically a fictitious business entity not located at the mailing address provided by Respondents TSMA and/or A.

Garrison. Also, Respondents had access to the mail received at the addresses described above.

35. In reliance upon the information provided in the premium finance contracts, SunCo mailed payment coupon booklets to the addresses provided by Respondents TSMA and/or A. Garrison in the premium finance contracts.

36. SunCo did not receive all required monthly payments on each of the four premium finance contracts written by TSMA and/or A. Garrison on its behalf. The monthly premium finance payments SunCo did receive were paid via either a money order or a check written from TSMA's Bank Account.

37. Between July 18, 1995 and November 27, 1995, TSMA and A. Garrison completed premium finance drafts on behalf of fictitious insureds. In completing the drafts, TSMA and A. Garrison would sign the drafts and assign the fictitious insured a bogus insurance policy number.

38. In total, TSMA and A. Garrison completed and signed four drafts. Each draft was deposited into TSMA's Bank Account. Respondents E. Garrison and Gaden are the authorized signers for the TSMA Bank Account.

39. TSMA and/or A. Garrison failed to complete and/or forward any applications for insurance to the various insurers.

40. Respondents TSMA, A. Garrison, E. Garrison and Gaden failed to forward any of the financed premium monies to the various insurers listed on the drafts, but instead misappropriated the monies and/or converted the funds to their own use. TSMA

and/or A. Garrison also failed to forward any of the down payments listed on the premium finance contracts.

41. No policy or coverage was provided by the various insurers in connection with the above-mentioned premium finance contracts prepared and completed by TSMA and/or A. Garrison.

42. On or about March 10, 1997, the Department issued an Order to Appear for EUO to Respondent A. Garrison with an appearance date of March 18, 1997. The Order to Appear for EUO was sent by certified mail, return receipt requested, and service was in compliance with A.R.S. § 20-151. At the request of A. Garrison, the Department rescheduled the EUO for March 20, 1997 in order to allow him time to obtain legal representation for the EUO.

43. On or about March 19, 1997, SunCo received refunds of its premium finance monies from Respondents TSMA and Watkins in an amount totaling $107,000.

44. A. Garrison failed to appear for the EUO on March 20, 1997. The Department then contacted Bill Downey, legal counsel for A. Garrison, and again arranged for the rescheduling of the EUO on two different occasions, but A. Garrison failed to appear in both instances.

VIOLATIONS

45. Respondents TSMA, A. Garrison, E. Garrison and Gaden's conduct alleged above constitutes a wilful violation of, or a wilful noncompliance with, any provision of this title, or any

lawful rule, regulation or order of the director, in violation of A.R.S. § 20-316(A)(2).

46. Respondents TSMA, A. Garrison, E. Garrison and Gaden's conduct alleged above constitutes the misappropriation or conversion to their own use or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others and received in or during the conduct of business under the licenses or through their use, in violation of A.R.S. § 20-316(A)(4).

47. Respondents TSMA, A. Garrison, E. Garrison and Gaden's conduct alleged above constitutes a conduct of affairs under the licenses showing the licensees to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer, within the meaning of A.R.S. § 20-316(A)(7).

48. Respondents TSMA and A. Garrison's conduct alleged above constitutes the making, or causing, directly or indirectly, to be made any statements containing any assertions, representations, or statements with respect to the business of insurance, which are untrue, deceptive or misleading, within the meaning of A.R.S. § 20-444(A).

49. Respondents TSMA, A. Garrison, E. Garrison and Gaden's conduct alleged above constitutes an act of fraud in that Respondents knowingly and with intent to defraud diverted or attempted or conspired to divert the monies of an insurer in connection with the transaction of insurance within the meaning of A.R.S. § 20-463(A)(4).

50. The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers pursuant to A.R.S. § 20-316(B).

51. Grounds exist for the Director to suspend, revoke or refuse to renew Respondents TSMA, A. Garrison, E. Garrison and Gaden's insurance licenses, impose a civil penalty upon Respondents and/or order restitution, pursuant to A.R.S. § 20-316(A), 20-316(C) and 20-456(B).

COUNT III

52. Between August 15, 1995 and February 15, 1996, Respondents TSMA and Burrola prepared and completed six insurance premium finance contracts through SunCo for commercial auto insurance. The premium finance contracts were purportedly made on behalf of six different borrowers/insureds seeking coverage through various insurers.

53. Respondents TSMA and Burrola misrepresented the existence and/or identity of the borrowers/insureds listed on the SunCo premium finance contracts. Respondents TSMA and Burrola completed premium finance contracts on behalf of nonexistent clients and either used or arranged for the use of bogus mailing addresses for receipt of premium payment coupon booklets.

54. Repondents TSMA and Burrola represented to SunCo in the premium finance contracts that the borrower/insured could be reached at the mailing address provided in the contract. However,

the mailing addresses provided to SunCo by Respondents TSMA and Burrola included:

a. Retail mail drop sites.

b. United States Post Office ("USPO") mail boxes secured by Respondent Burrola.

c. Burrola's address of record on file with the Department.

d. Address of relatives of Respondent Burrola.

55. The borrower/insured listed on the premium finance contract was typically a fictitious business entity not located at the mailing address provided by Respondents TSMA and Burrola. Also, Respondents had access to the mail received at the addresses described above.

56. In reliance upon the information provided in the premium finance contracts, SunCo mailed payment coupon booklets to the addresses provided by Respondents TSMA and Burrola in the premium finance contracts.

57. SunCo did not receive any monthly payments on two of the six premium finance contracts written by TSMA and Burrola on its behalf. The monthly premium finance payments SunCo did receive were paid via either a money order or a check written from TSMA's Bank Account.

58. Between August 15, 1995 and February 15, 1996, TSMA and Burrola completed premium finance drafts on behalf of fictitious insureds. In completing the drafts, TSMA and Burrola would sign the drafts and either assign the fictitious insured a bogus

insurance policy number or indicate that the policy number would follow.

59. In total, TSMA and Burrola completed and signed six drafts. Each draft was deposited into TSMA's Bank Account. Respondents E. Garrison and Gaden are the authorized signers for the TSMA Bank Account.

60. TSMA and Burrola failed to complete and/or forward any applications for insurance to the various insurers.

61. Respondents TSMA, Burrola, E. Garrison and Gaden failed to forward any of the financed premium monies to the various insurers listed on the drafts, but instead misappropriated the monies and/or converted the funds to their own use. TSMA and Burrola also failed to forward any of the down payments listed on the premium finance contracts.

62. No policy or coverage was provided by the various insurers in connection with the above-mentioned premium finance contracts prepared and completed by TSMA and Burrola.

63. On or about March 10, 1997, the Department issued an Order to Appear for EUO to Respondent Burrola with an appearance date of March 18, 1997. The Order to Appear for EUO was sent by certified mail, return receipt requested, and service was in compliance with A.R.S. § 20-151. Burrola, however, failed to appear for the EUO. At the request of Burrola, the Department rescheduled the EUO for March 20, 1997, but Burrola again failed to appear.

64. On or about March 19, 1997, SunCo received refunds of its premium finance monies from Respondents TSMA and Watkins in an amount totaling $107,000.

65. Shortly after March 20, 1997, the Department was contacted by Bill Downey who stated he represented Burrola as his attorney. At the request of Downey, the Department again rescheduled the EUO for April 3, 1997. Burrola, however, again failed to appear.

VIOLATIONS

66. Respondents TSMA, Burrola, E. Garrison and Gaden's conduct alleged above constitutes a wilful violation of, or a wilful noncompliance with, any provision of this title, or any lawful rule, regulation or order of the director, in violation of A.R.S. § 20-316(A)(2).

67. Respondents TSMA, Burrola, E. Garrison and Gaden's conduct alleged above constitutes the misappropriation or conversion to their own use or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others and received in or during the conduct of business under the licenses or through their use, in violation of A.R.S. § 20-316(A)(4).

68. Respondents TSMA, Burrola, E. Garrison and Gaden's conduct alleged above constitutes a conduct of affairs under the licenses showing the licensees to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer, within the meaning of A.R.S. § 20-316(A)(7).

69. Respondents TSMA and Burrola's conduct alleged above constitutes the making, or causing, directly or indirectly, to be made any statements containing any assertions, representations, or statements with respect to the business of insurance, which are untrue, deceptive or misleading, within the meaning of A.R.S. § 20-444(A).

70. Respondents TSMA, Burrola, E. Garrison and Gaden's conduct alleged above constitutes an act of fraud in that Respondents knowingly and with intent to defraud diverted or attempted or conspired to divert the monies of an insurer in connection with the transaction of insurance within the meaning of A.R.S. § 20-463(A)(4).

71. The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers pursuant to A.R.S. § 20-316(B).

72. Grounds exist for the Director to suspend, revoke or refuse to renew Respondents TSMA, Burrola, E. Garrison and Gaden's insurance licenses, impose a civil penalty upon Respondents and/or order restitution, pursuant to A.R.S. § 20-316(A), 20-316(C) and 20-456(B).

WHEREFORE, if after hearing, the Director makes a finding of one or more of the above-described allegations, the Director may suspend, revoke or refuse to renew Respondents' insurance licenses, impose a civil penalty and order restitution, pursuant to A.R.S. § 20-316(A), 20-316(B), 20-316(C) and 20-456(B).

Pursuant to A.R.S. § 20-150, the Director of Insurance 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.

DATED this 25 day of November 1997.

JOHN A. GREENE, Director
Arizona Department of Insurance

COPY of the foregoing mailed
this 2nd day of December 1997 to:

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

Michael J. De La Cruz
Assistant Attorney General
1275 W. Washington Street
Phoenix, AZ 85007
Attorney for the Department

Charles R. Cohen, Deputy Director
John Gagne, Assistant Director
Arnold Sniegowski, Investigations Supervisor
Donna D. Futrell, Investigator
Maureen Catalioto, Supervisor
Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, AZ 85018

Transportation & Specialty Marketplace Agency
15612 N. 32nd Street, #5
Phoenix, AZ 85032

Judith A. Gaden
15612 N. 32nd Street, #5
Phoenix, AZ 85032

Judith A. Gaden
21 E. Kathleen Road
Phoenix, AZ 85022

Ernie W. Garrison
15612 N. 32nd Street, #5
Phoenix, AZ 85032

Ernie W. Garrison
908 W. Flynn Lane
Phoenix, AZ 85013

Anthony M. Garrison
World Marketing Alliance
15612 N. 32nd Street, #5
Phoenix, AZ 85032

Anthony M. Garrison
3723 W. Camino Real
Glendale, AZ 85310

William R. Burrola
15612 N. 32nd Street, #5
Phoenix, AZ 85032

William R. Burrola
18807 N. 67th Drive
Glendale, AZ 85308

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) 542-7722.

Century National Insurance Company
P.O. Box 3999
North Hollywood, CA 91609

Victoria Fire & Casualty
5915 Landerbrook Drive
Cleveland, OH 44124-4068

Fortis Benefits I.C.
Compliance Dept.
P.O. Box 419052
Kansas City, MO 64141-6052

Carney Burton

#15494 [CPA97-192]