STATE OF ARIZONA
FILED

FEB 3 1999

DEPT. OF INSURANCE
BY CB

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of: **DEBORAH JEAN BAGGETT** Respondent.	No. 98A-211-INS **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

On December 30, 1998, the Arizona Department of Insurance ("Department") issued an Order Summarily Suspending Licenses and Notice of Hearing ("Notice") in the above-captioned matter, a copy of which is attached and incorporated herein by this reference. The Notice required Respondent Deborah Jean Baggett ("Respondent") to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to file an answer. On February 1, 1999, counsel for the Department filed a Request for Default, and Proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-106(C), 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. Respondent is 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 Respondent's 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 and/or order restitution, pursuant to A.R.S. §20-316(C).

ORDER

Based on the above, IT IS ORDERED THAT:

1. All insurance licenses held by Respondent are revoked effective upon the issuance of this Order.

2. Respondent shall make restitution to the following entities and in the amounts listed: (a) Delta Card Service/Woodforest National Bank in the amount of $14,865.41; and (b) Novus Merchants in the amount of $1,652.20.

3. Respondent shall pay a civil penalty in the amount of $ 1,000.00 to the Director payable upon entry of this Order for remission to the State Treasurer for deposit in the State General Fund.

4. The hearing set for February 16, 1999, at 9:00 a.m. at the Office of Administrative Hearings shall be vacated.

DATED this 3rd day of February, 1999.

CHARLES R. COHEN
Director of Insurance

COPY of the foregoing mailed this 3rd day of February, 1999, 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

Gerrie L. Marks, Executive Assistant for Regulatory Affairs
John Gagne, Assistant Director
Donna D. Futrell, Investigator
Maureen Catalioto, Supervisor
Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, AZ 85018

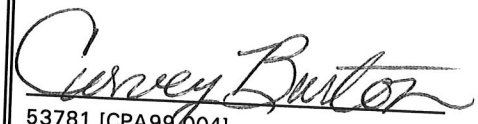
Randy W. Niles
Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007

Deborah Jean Baggett
1021 Jefferson Avenue
Ajo, AZ 85321
Respondent

Deborah Jean Baggett
410 Estrella
Ajo, AZ 85321
Respondent

Deborah Jean Baggett
3641 Hwy 85
Ajo, AZ 85321

Colonial Insurance Company of Wisconsin
P.O. Box 182109
5525 Park Center Circle
Columbus, OH 43218-2109



53781 [CPA99-004]

Consumer Protection &
Advocacy Section

JAN 04 1999

RECEIVED

FILED

DEC 30 1998

DEPT. OF INSURANCE
BY

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:	)	
	)	Docket No. 98A-211-INS
DEBORAH JEAN BAGGETT	)	
	)	**ORDER SUMMARILY SUSPENDING LICENSES AND NOTICE OF HEARING**
Respondent.	)	
	)	

The Arizona Department of Insurance ("Department") alleges that Deborah Jean Baggett ("Respondent") has violated the provisions of Arizona Revised Statutes, Title 20. In light of the serious nature of these allegations, the Director of Insurance ("Director") finds that the public health, safety and welfare require emergency action, within the meaning of A.R.S. §41-1092.11(B).

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

EFFECTIVE this 30th day of December, 1998.

CHARLES R. COHEN
Director of Insurance

NOTICE OF HEARING

PLEASE TAKE NOTICE, that pursuant to the provision 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 of the Director's duly designated representative, on Tuesday, the 16th day of February, 1999, at 9:00 a.m., at the Office of Administrative Hearings, 1700 West Washington, 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 named herein, not less than five (5) business days prior to the date set for 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 the 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 Director to compel attendance of witnesses and production of evidence.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the state of Arizona, or, if the 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 proceedings 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) 542-3702, 1275 West Washington Street, 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, APPLICANT 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 APPLICANT'S 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, APPLICANT 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 INSURED.

PERSONS WITH DISABILITIES MAY REQUEST REASONABLE ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUEST 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 allegations supporting this Notice of Hearing are as follows:

1. Respondent holds, and at all material times held, a license to transact property and casualty insurance business in the state of Arizona, license number 50155. The license expires effective December 31, 1998.

2. Respondent resides in Ajo, Arizona, which is located on the border of Mexico. Respondent's primary transaction of business under her license was selling tourists Mexican auto insurance for their brief trips into Mexico. Respondent managed a combination insurance office/ "Mr. Burger" restaurant, from which she sold the insurance.

3. Respondent frequently secured insurance for these consumers by asking them to pay with credit or debit cards. Respondent had contracts with two credit card companies -- Novus and Delta Card Service. Respondent had a credit card machine with an account established under the name of Arizona Mexico Insurance Services ("AMI") and she was the sole signatory on the account. In fact, Respondent was an independent contractor for John Stathis and his d.b.a. is Arizona Mexico Insurance. Respondent did not have Stathis' permission to open any account using his d.b.a.

4. The money generated by the credit card charges was deposited to Respondent's AMI account. Respondent wrote checks for personal use from this account, including a check dated October 14, 1998, for $5,343.61, which was the down payment for a home in which Respondent now resides.

COUNT I

5. On May 22, 1998, James Christian purchased a three day Mexican auto insurance policy from Respondent. Christian used his VISA debit card to pay the $29.00 premium. This amount was paid in full in May 1998.

6. In October 1998, Christian received his Norwest bank statement that includes purchases on his VISA debit card. A $29.00 debit on October 1 and a $92.00 debit on October 8 to AMI appeared on Christian's statement. Christian did not purchase additional Mexican auto insurance on these dates nor did he authorize additional debits from his account.

COUNT II

7. On December 26, 1997, Fred J. Walhof purchased a four day Mexican auto insurance policy from Respondent. The insurance was purchased at "Mr. Burger" from Palm Insurance of Arizona, an unregistered d.b.a. briefly used by Respondent. Walhof used his VISA credit card to pay the $23.35 premium. This amount was paid in full in January 1998.

8. In November 1998, Walhof received his VISA statement. The November bill reflected a $123.35 charge from AMI on October 10, 1998. Walhof did not purchase additional Mexican auto insurance on this date nor did he authorize additional charges to his account.

COUNT III

9. On October 24, 1997, Joleen Richardson-Hall purchased a Mexican auto insurance policy from Respondent at "Mr. Burger". Richardson-Hall used her Wells Fargo CheckCard to pay the $33.48 premium. This amount was paid in full in October 1997.

10. Richardson-Hall received her October 1998 Wells Fargo statement and discovered a $133.48 charge from AMI on October 8, 1998. Richardson-Hall did not purchase additional Mexican auto insurance on this date nor did she authorize additional charges to her account.

COUNT IV

11. In May 1998, Ann Kemter paid for a portion of a Mexican auto insurance policy purchased from Respondent. The owner of the insured vehicle paid half the premium in cash and Kemter paid the remaining $17.00 with her Fleet Bank debit card. This amount was paid in full in May 1998.

12. When Kemter received her October 1998 Fleet Bank statement she noted a $27.00 debit on September 25 and a $57.00 debit on October 5 paid to AMI. Kemter resides in New York, she did not purchase additional Mexican auto insurance on these dates nor did she authorize additional debits from her account.

COUNT V

13. The Department obtained copies of AMI's Community First National Bank statements. In the month of October 1998, AMI received payment for $15,051.44 in credit card charges. Respondent wrote checks against the entire $15,051.44 and she is the sole signatory on the account.

VIOLATIONS

14. Respondent's conduct, as alleged above, constitutes a willful violation of or noncompliance with any provision of Title 20, within the meaning of A.R.S. §20-316(A)(2).

15. Respondent's conduct, as alleged above, constitutes misappropriation or conversion or illegal withholding of monies belonging to policyholders or others and received in or during the conduct of business under the license or through its use, within the meaning of A.R.S. §20-316(A)(4).

16. Respondent's conduct, as alleged above, constitutes a conduct of affairs under the license showing the licensee 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).

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

WHEREFORE, if after hearing, the Director finds the grounds alleged above, the Director may suspend, revoke, or refuse to renew Respondent's insurance license or order restitution, or order Respondent to pay civil penalties, prusuant to A.R.S. §§20-316(C) 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 Administrative Law Judge, to make written recommendations to the Director of Insurance consisting of proposed Findings of Fact, proposed Conclusion of Law and a proposed order. This delegations doesnot include delegation of the authority of the Director of Insurance to make hte order on hearing or other decisions in this matter.

Pursuant to A.R.S. §41-1092.01, your hearing will be conducted by the Office of Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to be followed.

Dated this 30th day of December, 1998.

CHARLES R. COHEN
Director of Insurance

COPY of the foregoing mailed/hand-delivered
this 30th day of December, 1998, to:

Deborah Jean Baggett
1021 Jefferson Avenue
Ajo, AZ 85321

Deborah Jean Baggett
410 Estrella
Ajo, AZ 85321

Deborah Jean Baggett
3641 Hwy 85
Ajo, AZ 85321

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

Sara M. Begley, Deputy Director
John D. Gagne, Assistant Director
Maureen Catalioto, Supervisor
Donna Futrell, Investigator
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Lewis Kowal
Administrative Law Judge
Office of Administrative Hearings
1700 West Washington, Suite 602
West Wing, Capitol Tower
Phoenix, AZ 85007

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.

Colonial Insurance Company of Wisconsin
P.O. Box 182109
5525 Park Center Circle
Columbus, OH 43218-2109

Curvey Walters Burton