

STATE OF ARIZONA

NOV. 7, 1994

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE

BY NAK

In the Matter of)
)
CASH REGISTER AUTO INSURANCE)
OF BETHANY HOME ROAD,)
ARROWHEAD INSURANCE GROUP,)
INC., and DAVID PATRICK FIX,)
)
Respondents.)

Docket No. 8491

ORDER

On October 5, 1994, a hearing was held in the above-captioned matter. Respondents Cash Register Auto Insurance of Bethany Home Road ("Cash Register"), Arrowhead Insurance Group, Inc. ("Arrowhead") and David Patrick Fix ("Fix") did not appear at the hearing. The Arizona Department of Insurance ("the Department") was represented by Kathryn Leonard, Assistant Attorney General.

On September 14, 1994, Ms. Leonard filed a request that Respondents Cash Register, Arrowhead and Fix be found in default in the above-referenced matter, that all allegations in the Notice of Hearing be admitted, and that Respondents' licenses to transact insurance be revoked.

On September 26, 1994, Respondents Arrowhead and Fix filed a request to set aside the judgment. The Procedural Order dated September 24, 1994, indicated that the Request for Default had not been considered or granted. The Procedural Order confirmed that the hearing on this matter would be held on October 5, 1994 at 9:00 a.m., after oral argument on the Department's Request for Default. None of the Respondents appeared at the October 5, 1994, hearing.

1 On October 4, 1994, Respondents Arrowhead and Fix filed
2 an answer to the assertions in the Notice of Hearing. On October
3 5, 1994, Assistant Attorney General Kathryn Leonard moved to
4 withdraw the Request for Default and requested to proceed to a
5 hearing against all of the named Respondents to this matter. The
6 Motion to Withdraw the Request for Default was granted by the
7 Administrative Law Judge.

8 No default order has been entered in this matter and
9 Arrowhead's and Fix's Request to Set Aside the Judgment is denied.

10 Based upon the evidence submitted and testimony taken
11 at the October 5, 1994 hearing on this matter, Administrative Law
12 Judge Lewis D. Kowal has prepared the following Findings of Fact,
13 Conclusions of Law, and Order for the Director's consideration
14 and approval, and based upon these recommendations, the Director
15 makes the following Findings of Fact, Conclusions of Law and
16 enters the following Order:

17 FINDINGS OF FACT

18 1. At all times material to this matter, Cash Register
19 was licensed as a property and casualty agent and broker in the
20 state of Arizona (license # 0805626). The licenses expired May
21 31, 1994.

22 2. At all times material to this matter, Arrowhead was
23 an Arizona Corporation incorporated on July 1, 1993. Arrowhead
24 was issued an Arizona insurance license on July 14, 1993 to be a
25 licensed property and casualty agent and broker in the state of
26 Arizona. (License #16919). The licenses expired July 31, 1994.

27 3. At all times material to this matter, Fix was
28 licensed as a property and casualty insurance broker in the state

1 of Arizona. (License #8633). That license expired August 31,
2 1994.

3 4. At all times material to this matter, Fix was the
4 President of Cash Register and managed its office located at 6029
5 North 19th Avenue, Phoenix, Arizona.

6 5. As of June, 1993, Fix transacted business as
7 Arrowhead at 6029 North 19th Avenue, Phoenix, Arizona, with the
8 same personnel, the same equipment, and with the same insurance
9 carriers and insureds as Cash Register.

10 6. Pursuant to Fix's instructions, as of June, 1993,
11 employees of Cash Register told insureds, if they asked, that
12 Cash Register had changed its name to Arrowhead.

13 7. On August 30, 1993, the Arizona Corporation
14 Commission received official notification from Fix dated July 13,
15 1993, that he had resigned as President and Statutory Agent of
16 Cash Register as of July 1, 1993.

17 8. On September 3, 1993, the Department of Insurance
18 received a letter from Fix dated August 23, 1993, advising the
19 Department that Fix had resigned as President and employee of
20 Cash Register as of July 1, 1993.

21 9. On December 10, 1992, Cash Register received
22 \$118.00 cash from Mr. Shawn Cox ("Cox") as a down payment for an
23 automobile liability insurance policy to be issued by National
24 Colonial Insurance Company. The premium due on Cox's automobile
25 liability insurance policy was financed through Universal Premium
26 Acceptance Corporation ("UPAC").

27 10. On August 12, 1993, Cash Register received \$84.51
28 cash from Cox which represented the August monthly premium

1 payment for the National Colonial Insurance Company policy. On
2 August 13, 1993, Arrowhead issued check #1085 in the amount of
3 \$84.51 to UPAC as the August payment towards Cox's account.

4 11. Arrowhead's check #1085 in the amount of \$84.51 was
5 returned by the bank for insufficient funds.

6 12. Cash Register, Arrowhead and Fix did not pay UPAC
7 Cox's August payment. As a result of such non-payment, on
8 September 9, 1993, UPAC issued a notice of cancellation of Cox's
9 policy and Cox's National Colonial Insurance Company policy was
10 cancelled. The balance remaining on Cox's finance agreement with
11 UPAC for the National Colonial Insurance Company policy was
12 \$205.77 as of October 11, 1993.

13 13. Cash Register, Arrowhead and Fix have not refunded
14 to Cox the \$84.51 premium.

15 14. Cash Register, Arrowhead and Fix misappropriated or
16 converted Cox's \$84.51 premium to their own use.

17 15. On July 21, 1993, Cash Register received an
18 application for a six month automobile liability insurance policy
19 and a \$449.00 money order from Georgina De La Huerta, ("De La
20 Huerta"). The insurance policy was to be purchased through Four
21 Corners General Agency, Inc., the managing general agent for
22 United Southern Insurance Company.

23 16. Cash Register, Arrowhead and Fix did not forward De
24 La Huerta's application and \$449.00 premium to Four Corners
25 General Agency Inc.

26 17. Georgina De La Huerta did not receive the
27 automobile liability insurance coverage she paid for which

28

1 resulted in her driving her automobile without insurance for
2 several months.

3 18. Cash Register, Arrowhead and Fix have not refunded
4 to Ms. De La Huerta the \$449.00 premium.

5 19. Cash Register, Arrowhead and Fix misappropriated or
6 converted De La Huerta's \$449.00 premium to their own use.

7 20. Between June 17, 1993 and July 26, 1993, Dwight
8 Financial, Inc., received eleven insufficient funds checks from
9 Fix and Cash Register for premiums and down payments received by
10 Cash Register from approximately sixty-nine insureds who had
11 financed their insurance policies through Dwight Financial, Inc.
12 Those insufficient funds checks are as follows:

<u>Check No.</u>	<u>Date Check Issued</u>	<u>Amount of Check</u>
2622	June 17, 1993	\$357.25
2623	June 17, 1993	\$431.60
2648	June 21, 1993	\$373.00
2650	June 21, 1993	\$515.85
2664	June 22, 1993	\$488.85
2711	June 29, 1993	\$380.10
2712	June 29, 1993	\$252.25
2757	July 09, 1993	\$394.40
1054	July 12, 1993	\$687.80
1094	July 19, 1993	\$222.60
1118	July 22, 1993	\$252.25
1119	July 26, 1993	\$224.00

20 21. The transmittal form which accompanied check no.
21 2757, dated July 9, 1993, in the amount of \$394.40 was sent to
22 Dwight Financial, Inc., by Arrowhead Insurance Group and Cash
23 Register.

24 22. On June 2, 1993, Cash Register issued check No.
25 2517 in the amount of \$359.20 to April Lopez as a premium refund
26 after her automobile insurance policy had been cancelled. April
27 Lopez presented Cash Register's check no. 2517 for payment and
28 the check was returned by the bank for insufficient funds.

1 23. Cash Register, Arrowhead and Fix have not refunded
2 Lopez's \$359.20 premium refund.

3 24. Cash Register, Arrowhead and Fix misappropriated or
4 converted Lopez's \$359.20 premium to their own use.

5 25. On August 20, 1992, Robert Mason purchased an
6 automobile liability insurance policy from Cash Register that was
7 to be issued by Coronet Insurance Company. That automobile
8 liability insurance policy was financed through UPAC.

9 26. On October 20, 1992, Coronet Insurance Company
10 cancelled the automobile liability insurance policy of Robert
11 Mason and forwarded the return premium in the amount of \$969.00
12 to UPAC in November, 1992.

13 27. From January 6, 1993 through May 12, 1993, Robert
14 Mason continued to make premium payments to UPAC even though the
15 Coronet Insurance Company automobile liability policy had been
16 cancelled.

17 28. From January 6, 1993, through May 12, 1993, UPAC
18 forwarded refund checks totaling \$727.95 to Cash Register payable
19 to Robert Mason.

20 29. Cash Register and Fix deposited the refund checks
21 into Cash Register's bank account and have not refunded the
22 \$727.95 premium refund to Robert Mason.

23 30. Cash Register and Fix misappropriated or converted
24 Mason's \$727.95 premium refund to their own use.

25 31. On August 5, 1993, Cash Register, Arrowhead and Fix
26 received \$102.65 cash from Alonzo Parker as premium for his
27 automobile liability insurance policy. The premium for Alonzo

28

1 Parker's automobile liability insurance policy was financed
2 through Dwight Financial, Inc.

3 32. On August 6, 1993 Arrowhead issued check No. 1058
4 in the amount of \$102.65 to Dwight Financial, Inc., as payment
5 towards Alonzo Parker's account.

6 33. Arrowhead's Check No. 1058 in the amount of \$102.65
7 was returned by the bank for insufficient funds.

8 34. On August 23, 1993, Dwight Financial Inc., issued a
9 10 day Notice of Intent to Cancel to Alonzo Parker for
10 non-payment of the August payment. Mr. Parker paid Dwight
11 Financial, Inc., \$94.18 on August 31, 1993, to keep his policy in
12 force. Dwight Financial, Inc., did not issue a cancellation
13 notice and waived all insufficient funds fees for the return of
14 Arrowhead's check no. 1058.

15 35. Cash Register, Arrowhead and Fix have not refunded
16 to Alonzo Parker the \$102.65 premium.

17 36. Cash Register, Arrowhead and Fix misappropriated or
18 converted Parker's \$102.65 premium to their own use.

19 37. On September 18, 1992, Ramiro Solis ("Solis"),
20 purchased automobile liability insurance from Cash Register. The
21 automobile liability insurance policy was issued by Coronet
22 Insurance Company and financed through UPAC.

23 38. Solis continued to make payments to UPAC through
24 July 15, 1993, although Coronet Insurance Company cancelled
25 Solis' automobile liability insurance policy on January 25,
26 1993.

27

28

1 39. On March 9, 1993, UPAC received a return premium of
2 \$1,000.00 from Coronet Insurance Company. UPAC applied the
3 \$1,000.00 as a credit to Solis' account with UPAC.

4 40. UPAC also forwarded four refund checks totalling
5 \$1,088.51 to Cash Register payable to Solis.

6 41. Cash Register and Fix deposited three refund checks
7 totalling \$797.10 into Cash Register's bank account and failed to
8 refund the \$797.10 premium to Solis. Solis endorsed the fourth
9 UPAC premium refund check no. 0431376 in the amount of \$291.41.

10 42. Cash Register and Fix have not refunded to Solis
11 the \$797.10 premium refund.

12 43. Cash Register and Fix misappropriated or converted
13 Solis' \$797.10 premium refund to their own use.

14 44. On May 21, 1993, Epifano De La Fuentes ("De La
15 Fuentes") met with Fix and signed four commercial insurance
16 policies to be issued by Interstate Fire and Casualty Company for
17 Super Clean, EPI Wash, Las Fuentes, and Car Wash Company. Fix
18 later received from De La Fuentes four checks dated June 17,
19 1994, which totalled \$5,477.00 and were made payable to Cash
20 Register. The \$5,477.00 represented the full premium due on the
21 commercial insurance policies for De La Fuentes' four car wash
22 locations.

23 45. On June 21, 1993, Fix deposited into the Cash
24 Register account four checks representing \$5,477.00 premium from
25 De La Fuentes for the commercial insurance policies for the four
26 car wash locations.

27 46. On July 1, 1993, Fix completed a premium finance
28 agreement by signing De La Fuentes' name as the borrower for

1 funds to pay the premium for the four commercial insurance
2 policies to be issued by Interstate Fire and Casualty Company.
3 From the \$5,477.00 Fix collected from De La Fuentes, Fix made a
4 \$274.00 down payment for the commercial insurance policies. Fix
5 submitted to Dwight Financial, Inc. the \$274.00 and finance
6 agreement in which Fix had signed De La Fuentes' name as the
7 borrower.

8 47. Fix listed the borrower's address on the premium
9 finance agreement which he submitted to Dwight Financial, Inc.,
10 as being c/o Arrowhead Ins., 6029 N. 19th Ave., Phoenix, Arizona,
11 which is the address of Cash Register and Arrowhead.

12 48. There was no need for De La Fuentes or Fix to
13 finance the four Interstate Fire and Casualty Company commercial
14 insurance policies because De La Fuentes had provided Fix with
15 the full premium for these policies which amounted to \$5,477.00.

16 49. Fix made no additional payments on the De La
17 Fuentes' premium finance agreement. September 10, 1993, Dwight
18 Financial Inc., issued a Notice of Cancellation of the four
19 Interstate Fire and Casualty Company commercial policies for
20 non-payment of premium.

21 50. Interstate Fire and Casualty Company ("Interstate")
22 agreed to maintain the commercial liability insurance policies
23 for De La Fuentes because Interstate had received the full
24 premium due on the policies (\$5,477.00) from Dwight Financial,
25 Inc.

26 51. Dwight Financial, Inc., has not been reimbursed by
27 Fix, Cash Register or Arrowhead for the premium payment Dwight
28 Financial, Inc. made to Interstate on behalf of De La Fuentes.

1 52. Cash Register, Arrowhead and Fix misappropriated or
2 converted De La Fuentes' \$5,203.00 premium to their own use.

3 53. On December 22, 1993, the Department issued an
4 Order to Appear to Fix. The Order was returned to the Department
5 by the post office marked "Forwarding Order Expired".

6 54. Fix failed to notify the Department of a change of
7 address as required by A.R.S. §20-313.

8 CONCLUSIONS OF LAW

9 1. The conduct of Respondents Cash Register, Arrowhead
10 and Fix constitutes a record of dishonesty in business and
11 financial matters under A.R.S. §20-290(B)(2).

12 2. Mr. Fix's conduct constitutes a wilful violation
13 of, non-compliance with any provision of Title 20, Arizona
14 Revised Statutes, or any lawful rule, regulation or order of the
15 Director in violation of A.R.S. §20-316(A)(2).

16 3. The conduct of Cash Register, Arrowhead and Fix
17 constitutes misappropriation or conversion to their own use or
18 illegal withholding of monies belonging to policy holders,
19 insurers, beneficiaries or others and received in or during the
20 conduct of business under licenses issued by the Department of
21 Insurance or through their use in violation of A.R.S.
22 §20-316(A)(4).

23 4. The conduct of Cash Register, Arrowhead and Fix
24 constitutes a conduct of affairs under their licenses showing
25 them to be incompetent or a source of injury and loss to the
26 public or any insurer within the meaning of A.R.S. §20-316(A)(7).

27 5. Grounds exist to suspend, revoke or refuse to renew
28 the insurance licenses of Cash Register, Arrowhead and Fix, to

1 impose a civil penalty upon Cash Register, Arrowhead and Fix and
2 to order Cash Register, Arrowhead and Fix to make restitution,
3 pursuant to A.R.S. §§20-316(A), 20-316(C) and 20-290(B)(2).

4 ORDER

5 IT IS ORDERED that:

6 1. All insurance licenses issued to Cash Register Auto
7 Insurance of Bethany Home Road, Arrowhead Insurance Group, Inc.,
8 and David Patrick Fix are revoked effective immediately.

9 2. Pursuant to A.R.S. §20-316(C), Cash Register Auto
10 Insurance of Bethany Home Road shall pay a civil penalty to the
11 Arizona Department of Insurance in the amount of \$2,000.00 within
12 20 days of the date of this Order.

13 3. Pursuant to A.R.S. §20-316(C), Arrowhead Insurance
14 Group, Inc., shall pay a civil penalty to the Arizona Department
15 of Insurance in the amount of \$2,000.00 within 20 days of the
16 date of this Order.

17 4. Pursuant to A.R.S. §20-316(C), David Patrick Fix
18 shall pay a civil penalty to the Arizona Department of Insurance
19 in the amount of \$2,250.00 within 20 days of the date of this
20 Order.

21 5. Pursuant to A.R.S. §20-316(C), Cash Register Auto
22 Insurance of Bethany Home Road, Arrowhead Insurance Group, Inc.,
23 and David Patrick Fix shall be jointly and severally liable to
24 make the following restitution payments: the sum of \$323.77 to
25 Shawn Cox; the sum of \$449.00 to Georgina De La Huerta; the sum
26 of \$359.20 to April Lopez; the sum of \$727.95 to Robert Mason;
27 the sum of \$102.65 to Alonzo Parker; the sum of \$797.10 to Ramiro
28 Solis, and the sum of \$5,203.00 to Dwight Financial, Inc.. All

1 such restitution payments are to be made within 30 days of this
2 Order and proof of such restitution payments are to be submitted
3 to the Director of the Arizona Department of Insurance within 45
4 days of this Order.

5 6. Pursuant to A.R.S. §20-315, Cash Register Auto
6 Insurance of Bethany Home Road, Arrowhead Insurance Group, Inc.,
7 and David Patrick Fix shall within 20 days of the date of this
8 Order surrender to the Director of the Arizona Department of
9 Insurance all insurance licenses issued to them by the Department.

10 EFFECTIVE this 7th day of November, 1994.

11 

12 CHRIS HERSTAM
13 Director of Insurance

14 

15 LEWIS D. KOWAL
16 Administrative Law Judge

17 COPY of the foregoing mailed/delivered
18 this 7th day of November, 1994, to:

19 Kathryn Leonard
20 Assistant Attorney General
21 1275 W. Washington
22 Phoenix, Arizona 85007

23 Gay Ann Williams, Deputy Director
24 Charles R. Cohen, Executive Assistant Director
25 John Gagne, Acting Manager of Investigations
26 Arnold Sniegowski, Investigator
27 Maureen Catalioto, Supervisor
28 Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, Arizona 85018

Cash Register Auto Insurance
of Bethany Home Road
2533 W. Bethany Home Road
Phoenix, AZ 85017

Cash Register Auto Insurance
6029 N. 19th Ave.
Phoenix, AZ 85015

1 Arrowhead Insurance Group, Inc.
6029 N. 19th Ave.
2 Phoenix, AZ 85015

3 David Patrick Fix
13013 N. 59th Dr.
4 Glendale, AZ 85304

5 David Patrick Fix
3233 W. Charleston Ave.
6 Phoenix, AZ 85023

7

8 By: Nancy Rangel
Nancy Rangel, Secretary for
9 Lewis D. Kowal

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 COPY of the Arizona Department of
Insurance Docket # 8491 Order dated
2 November 7, 1994, mailed this ~~day~~ day
of November, 1994, to:
3
4 Lloyd Register
Sharon Register
LR3 Enterprises, Inc.
5 1535 N. Maitland Avenue
Maitland, FL 32751-3317
6
7 Alpha Property & Casualty Inc. Co.
130 S. Main Street
P.O. Box 517
8 Shawano, WI 54166
9
10 Colonial Insurance Co. of California
2390 E. Orangewood Avenue
Anaheim, CA 92806-6167
11
12 Dixie National Life Ins. Co.
P.O. Box 22587
Jackson, MS 39225-2587
13
14 Merit Insurance Co.
c/o Skyway Management
P.O. Box 4490
Scottsdale, AZ 85260-4490
15
16 Coronet Insurance Company
c/o Insurance Services Underwriters
of the Southwest
17 8723 E. Via De Commercio
Scottsdale, AZ 85258
18
19 Sierra General Agency
P.O. Box 13538
Scottsdale, AZ 85254
20
21 Victoria Fire & Casualty Co.
P.O. Box 94534
Cleveland, OH 44101-4534
22
23 Century National Ins. Co.
P.O. Box 3999
North Hollywood, CA 91609
24
25 Empire Fire & Marine
1624 Douglas Street
Omaha, NE 68102
26
27 Midland Risk Insurance Co.
825 Crossover Lane, #112
Memphis, TN 38117-4936
28

1 Safeway Insurance Co.
500 S. Racine Avenue
2 Chicago, IL 60607

3 Statewide Insurance Co.
P.O. Box 799
4 Waukegan, IL 60079

5 Viking Insurance Company of Wisconsin
P.O. Box 10999
6 Austin, TX 78766

7 James J. Appenauer
1740 N. 15th Street, Suite 1117
8 Phoenix, AZ 85022

9 Craig Heath
Dwight Financial, Inc.
10 3335 N. 16th Street, Suite 2000
Phoenix, AZ 85018

11 Terry & Darcie Cox
12 7209 W. Pasadena Avenue
Glendale, AZ 85303

13 April Lopez
14 1485 E. Dover
Mesa, AZ 85203

15 Georgina De La Huerta
16 4450 N. 49th Drive
Phoenix, AZ 85031

17 Robert Mason
18 4430 N. 28th Street, #2
Phoenix, AZ 85016

19 Alonzo Parker
20 7002 W. Indian School Road, #1055
Phoenix, AZ 85033

21 Ramiro Solis
22 6210 S. 6th Avenue
Phoenix, AZ 85041

23 Bill Ash
24 c/o Insurance Service Underwriters
of the Southwest
25 8723 E. Via De Commercio
Scottsdale, AZ 85258

26 Epifano De La Fuentes
27 20849 N. 20th Street
Phoenix, AZ 85024

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Administrative Law Division within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R4-14-114(B).

The final decision of the Director may be appealed to the Superior Court of Maricopa County for judicial review pursuant to A.R.S. §20-166.

1 A COPY of the attached Order
2 in Arizona Department of Insurance
3 Docket No. 8491 was mailed this
4 18th day of November, 1994, to:

5 David P. Fix
6 Arrowhead Property
7 and Casualty
8 1466 E. Main St.
9 Mesa, AZ 85203

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
By: Nancy Rangel
Nancy Rangel