

STATE OF ARIZONA

OCT 17 1995

DEPARTMENT OF INSURANCE

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By llc

In the Matter of)
)
MICHAEL RAYMOND LEIBOW,)
)
Respondent.)
_____)

Docket No. 95-048

ORDER

On July 7, 1995, September 18, 1995 and September 20, 1995, a hearing took place in the above-captioned matter. Assistant Attorney General Hugh E. Hegyi appeared on behalf of the Arizona Department of Insurance ("Department"). Kraig J. Marton appeared on behalf of Respondent Michael Raymond Leibow ("Mr. Leibow").

Based upon the entire record, including all pleadings, motions, testimony, and exhibits, Administrative Law Judge Lewis D. Kowal prepared the following Findings of Fact, Conclusions of Law, and Order for consideration and approval by the Director of the Department (the "Director"). The Director adopts and enters the following Findings of Fact, Conclusions of Law and enters the following Order:

FINDINGS OF FACT

1. At all times material to this matter, Mr. Leibow was and is licensed as a life and disability agent by the State of Arizona (license number 697853) which expires March 31, 1997.
2. At all times material to this matter, Mr. Leibow was employed by Principal Mutual Insurance Company ("Principal") as an insurance agent.
3. On or about April 22, 1992, Mr. Leibow received an application and premium for Stephen Hassenger ("Mr. Hassenger")

1 after April 27, 1992, Mr. Leibow forwarded the application and
2 premium to Principal.

3 4. Life and health insurance policies were presented
4 by Mr. Leibow to Mr. Hassenger as part of the employee benefits
5 package which Studebakers offered Mr. Hassenger. Half of the
6 premium on the policies was to be paid by Studebakers and the
7 other half of the premium was to be paid by Mr. Hassenger.

8 5. At all times material to this matter Studebakers'
9 payments for life and health insurance policies for Mr.
10 Hassenger, William G. Emmons ("Mr. Emmons") and Joel N. Hocknell
11 ("Mr. Hocknell"), employees of Studebakers, were made via Surepay
12 direct withdrawals from Studebakers' bank account. The premium
13 amount to be paid by Mr. Hassenger for the insurance policies was
14 automatically deducted from Mr. Hassenger's paycheck.

15 6. In July, 1994, Mr. Hassenger terminated his
16 employment with Studebakers and left for New Zealand on July 17,
17 1994. Mr. Hassenger returned to Arizona in early October, 1994.

18 7. On or about August 5, 1994, without Mr.
19 Hassenger's knowledge or consent, Mr. Leibow requested from
20 Principal that a loan draft be issued for the maximum amount from
21 Mr. Hassenger's life insurance policy with Principal.

22 8. On or about August 5, 1994, Principal issued a
23 loan draft, payable to Mr. Hassenger, in the amount of \$312.00.
24 The loan draft was sent directly to Mr. Leibow to be forwarded to
25 Mr. Hassenger.

26 9. Mr. Leibow failed to forward the \$312.00 Principal
27 loan draft to Mr. Hassenger. Without Mr. Hassenger's knowledge
28 or consent, Mr. Leibow endorsed the \$312.00 loan draft and

1 or consent, Mr. Leibow endorsed the \$312.00 loan draft and
2 deposited it in his own bank account. Mr. Leibow never forwarded
3 the proceeds of the loan on Mr. Hassenger's life insurance policy
4 to Mr. Hassenger.

5 10. On or about March 4, 1992, Mr. Leibow received
6 application and premium from Mr. Emmons for a life insurance
7 policy to be issued by Principal.

8 11. Life and health insurance policies were presented
9 by Mr. Leibow to Mr. Emmons as part of the employee benefits
10 package which Studebakers offered Mr. Emmons. A minimal amount
11 was to be automatically deducted from Mr. Emmons' paycheck as his
12 payment for the cost of the insurance policies. The balance of
13 the cost of the insurance policies was to be paid by Studebakers.

14 12. On January 2, 1994, Mr. Emmons' employment with
15 Studebakers was terminated.

16 13. On or about August 2, 1994, Mr. Leibow requested
17 from Principal that a loan draft be issued for the maximum loan
18 amount from Mr. Emmons' life insurance policy with Principal.

19 14. On or about August 2, 1994, Principal issued a
20 loan draft, payable to Mr. Emmons, in the amount of \$330.00. The
21 loan draft was sent directly to Mr. Leibow to be forwarded to Mr.
22 Emmons.

23 15. Mr. Leibow failed to forward the \$330.00 Principal
24 loan draft to Mr. Emmons. Without Mr. Emmons' knowledge or
25 consent, Mr. Leibow endorsed the loan draft and deposited it in
26 his bank account. Mr. Leibow never forwarded the proceeds of the
27 loan on Mr. Emmons' life insurance policy to Mr. Emmons.

28 16. On or about January 13, 1993, Mr. Leibow received

1 from Mr. Hocknell an application for a life insurance policy to
2 be issued by Principal.

3 17. Life and health insurance policies were presented
4 by Mr. Leibow to Mr. Hocknell as part of the employee benefits
5 package which Studebakers offered Mr. Hocknell. The entire
6 premium on the insurance policies were to be paid by Studebakers.

7 18. In August, 1994, Mr. Hocknell terminated his
8 employment with Studebakers.

9 19. On or about August 2, 1994, without Mr. Hocknell's
10 knowledge or consent, Mr. Leibow requested from Principal that a
11 loan draft be issued for the maximum loan amount from Mr.
12 Hocknell's life insurance policy.

13 20. On or about August 2, 1994, Principal issued a
14 loan draft, payable to Mr. Hocknell, in the amount of \$111.00.
15 The loan draft was sent directly to Mr. Leibow to be forwarded to
16 Mr. Hocknell.

17 21. Mr. Leibow failed to forward the \$111.00 Principal
18 loan draft to Mr. Hocknell. Mr. Leibow endorsed the loan draft
19 and deposited it into his own bank account. Mr. Leibow never
20 forwarded the proceeds of the loan on Mr. Hocknell's life
21 insurance policy to Mr. Hocknell.

22 22. The loans taken against the Principal life
23 insurance policies of Messrs. Hassenger, Emmons and Hocknell were
24 credited back to their respective policies by Principal as if the
25 loans were never taken.

26 23. Dawn Berry ("Ms. Berry"), Business Products
27 Specialist of Principal, testified that this matter was referred
28 to her division because there were double endorsements on the

1 loan drafts¹ Principal issued to Messrs. Hassenger, Emmons
2 and Hocknell that were sent to Mr. Leibow. In its investigation
3 of this matter, Principal contacted Mr. Leibow and made inquiry
4 of the double endorsements on those loan drafts. Mr. Leibow now
5 admits that he lied in his response to Principal's inquiry into
6 these matters.

7 24. In response to the Department's inquiry of these
8 matters, Mr. Leibow used the factually incorrect response that he
9 sent to Principal. At the hearing, Mr. Leibow admitted he was
10 not truthful in providing the response to Principal and the
11 Department. Based upon the evidence presented at the hearing as
12 well as Mr. Leibow's testimony, it is evident that Mr. Leibow was
13 not truthful in responding to Principal's and the Department's
14 inquiry into the loan transactions and endorsements of the loan
15 drafts by Mr. Leibow with respect to the matters described above.

16 25. Mr. Leibow testified that he initiated the loan
17 drafts so as to obtain funds for Studebakers from Principal. Mr.
18 Leibow believed Principal owed money to Studebakers because funds
19 had continued to be automatically withdrawn from Studebakers'
20 bank account to pay the premium on life insurance policies of
21 Messrs. Hassenger, Emmons and Hocknell after their employment
22 with Studebakers had terminated. Mr. Leibow admitted that he had
23 no authority from Principal to handle the accounts of Messrs.

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25
26 ¹The loan drafts had endorsements in the name of the
27 respective insured and Mr. Leibow. At the hearing, Mr. Leibow
28 admitted that he endorsed the loan drafts without the consent of
the insureds and knew it was wrong to do so.

1 Hassenger, Emmons, and Hocknell, in that manner. Mr. Leibow
2 further testified that he intended to pay the proceeds obtained
3 from the loan drafts for Messrs. Hassenger, Emmons and Hocknell
4 to Studebakers. Based upon Mr. Leibow's prior conduct and
5 dealings with Principal and the Department as described above,
6 Mr. Leibow's testimony as to his intentions concerning the loan
7 drafts and proceeds obtained from the loan drafts is not credible.

8 CONCLUSIONS OF LAW

9 1. Mr. Leibow received notice of this proceeding as
10 prescribed by A.R.S. §§20-163 and 41-1061.

11 2. The Director has jurisdiction over this matter
12 pursuant to A.R.S. §§20-161.

13 3. Mr. Leibow's conduct described above constitutes a
14 record of dishonesty in business or financial matters under
15 A.R.S. §20-290(B)(2).

16 4. Mr. Leibow's conduct described above constitutes
17 the existence of any cause for which original issuance or any
18 renewal of an insurance license could have been refused such that
19 Respondent's license may be suspended or revoked under A.R.S.
20 §§20-316(A)(1), together with 20-290(B)(2).

21 5. Mr. Leibow's conduct described above constitutes a
22 wilful violation of, or wilful noncompliance with, any provision
23 of Title 20, or any lawful rule, regulation or order of the
24 Director in violation of A.R.S. §20-316(A)(2).

25 6. Mr. Leibow's conduct described above constitutes
26 misappropriation or conversion to his own use or illegal
27 withholding of monies belonging to policyholders, insurers,
28 beneficiaries or others and received in or during the conduct of

1 business under the license or through its use in violation of
2 A.R.S. §20-316(A)(4).

3 7. Mr. Leibow's conduct described above constitutes a
4 conduct of affairs under his license showing him to be
5 incompetent or a source of injury and loss to the public or any
6 insurer in violation of A.R.S. §20-316(A)(7).

7 8. Based upon the violations described above, the
8 Director may suspend, revoke or refuse to renew Mr. Leibow's
9 insurance license, impose a civil penalty and may order
10 restitution pursuant to A.R.S. §20-316(A) and 20-316(C).

11 ORDER

12 IT IS ORDERED that:

13 1. All insurance licenses issued by the Arizona
14 Department of Insurance to Michael Raymond Leibow be revoked
15 effective immediately.

16 2. Within 30 days of this Order, Michael Raymond
17 Leibow pay a civil penalty in the sum of \$3,000.00 to the Arizona
18 Department of Insurance.

19 EFFECTIVE this 17th day of October, 1995.

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21 

22 CHRIS HERSTAM
23 Director of Insurance

24 

25 LEWIS D. KOWAL
26 Chief Administrative Law Judge

1 MidAmerica Mutual Life Insurance Company
1801 W. Country Road B
2 Roseville, MN 55113

3 Universe Life Insurance Company
P.O. Box 538
4 Lewiston, ID 83501

5 American Medical Security
P.O. Box 19032
6 Green Bay, WI 54307-9032

7 Pacific Mutual Life Insurance Company
700 Newport Center Dr.
8 Newport Beach, CA 92658-9030

9 United States Life Insurance Company
P.O. Box 1580
10 Neptune, NJ 07754-1580

11 Transport Life Insurance Company
714 Main St.
12 Fort Worth, TX 76102

13 
14 Chris Crawford

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