

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

JUL 15 1997

DEPT. OF INSURANCE
BY ED

In the Matter of:)	Docket No. 97A-082-INS
)	
FRANCISCO BARRAZA III,)	FINDINGS OF FACT, CONCLUSIONS
License No. 241632)	OF LAW, AND ORDER
)	
Respondent.)	
_____)	

On May 16, 1997, the Director issued an Order Summarily Suspending License and Notice of Hearing ("Notice") in the above-captioned matter, a copy of which is attached and incorporated by this reference. The Notice required Francisco Barraza, III 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 July 10, 1997, 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. Francisco Barraza, III is in default.
3. The allegations in the Notice are deemed admitted.

1 CONCLUSIONS OF LAW

2 1. The conduct alleged in the Notice constitutes grounds for the Director to suspend,
3 revoke or refuse to renew Respondent's license to transact insurance in Arizona, pursuant to A.R.S. §
4 20-316(A).

5 2. The conduct alleged in the Notice constitutes grounds for the Director to impose a
6 civil penalty and/or order restitution, pursuant to A.R.S. § 20-316(C).

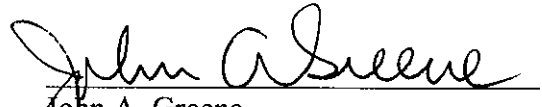
7 ORDER

8 Based on the above, it is ordered that:

9 1. All insurance licenses held by Francisco Barraza, III are revoked effective upon the
10 issuance of this Order.

11 2. Respondent Francisco Barraza, III shall make restitution to Been Escalante of
12 Escalante Engineering Enterprise, LLC in the amount of \$3,120.

13 DATED this 14 day of July, 1997

14
15 
16 John A. Greene
Director of Insurance

17 COPY of the foregoing mailed this
18 15th day of July, 1997, to:

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

20 Michael J. De La Cruz
21 Assistant Attorney General
1275 W. Washington
22 Phoenix, AZ 85007
23

1 Charles R. Cohen, Deputy Director
John Gagne, Assistant Director
2 Catherine O'Neil, Assistant Director
Arnold Sniegowski, Investigations Supervisor
3 Maureen Catalioto, Supervisor
Department of Insurance
4 2910 N. 44th Street, Suite 210
Phoenix, AZ 85018

5 Francisco Barraza, III
6 736 N. Center Avenue
Casa Grande, AZ 85222
7 Respondent

8 Escalante Engineering Enterprise, LLC
P.O. Box 157
9 Sells, AZ 85634

10 Rainier Insurance Company
520 S. W. 6th, Suite 500
11 Portland, OR 97204

12 Integon Insurance
P.O. Box 1424
13 Winston Salem, NC 27102-1424

14 Esther Davis

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MAY 16 1997

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Kathy

In the Matter of:)
)
 Francisco Barraza III)
 License No. 241632)
)
 Respondent.)


Docket No. 97A-082-INS

**ORDER SUMMARILY SUSPENDING
LICENSES AND NOTICE OF
HEARING**

The Arizona Department of Insurance (the "Department") alleges below that Francisco Barraza III ("Respondent") has 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 Respondent, effective immediately, pending the proceedings for revocation commenced this date.

EFFECTIVE this 16th day of May, 1997.



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 22nd day of July, 1997 at

1 9:00 a. m., at the Office of Administrative Hearings, 1700 West Washington, Suite 602,
2 Phoenix, Arizona (the "Hearing").

3 Motions to continue this matter shall be made in writing to the Administrative Law Judge not
4 less than five business days before the date set for the hearing. A copy of any motion to continue shall
5 be mailed or hand delivered to the opposing party or attorney on the same date of filing with the
6 Arizona Department of Insurance.

7 A.R.S. § 20-164 entitles any person affected by this hearing to appear in person and by
8 counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all
9 documentary evidence, to examine all witnesses, to present evidence in support of the person's
10 interests, and to have subpoenas issued by the Administrative Law Judge to compel attendance of
11 witnesses and production of evidence in the person's behalf.

12 Questions concerning issues raised in this Notice of Hearing should be directed to
13 Assistant Attorney General Michael De La Cruz, (602) 542-3702, 1275 West Washington,
14 Phoenix, Arizona 85007.

15
16 NOTICE OF APPLICABLE RULES

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

20 PURSUANT TO A.A.C. R-20-6-106, RESPONDENT SHALL FILE A WRITTEN
21 ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND
22 SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY
23

1 GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S
2 POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION
3 IN THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED TO
4 BE ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL BE DEEMED
5 WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENT SHALL BE DEEMED IN
6 DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS IN THE NOTICE OF
7 HEARING TO BE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING
8 SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR DENIAL OF A RENEWAL OF A
9 LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER RESTITUTION TO ANY
10 PARTY INJURED.

11 The Department alleges:

12 1. Respondent holds, and at all material times held Arizona license number 241632 to transact
13 business as a life, disability, property and casualty insurance agent. The life and disability portion of
14 the license expires on August 31, 1997 and the property and casualty portion of the license expires on
15 August 31, 1998.

16 2. On or about January 4, 1997, Respondent received three-thousand-one-hundred-twenty dollars
17 (\$3,120) from Ben Esacalante of Esacalante Engineering Enterprise, LLC ("Escalante") as premium
18 for general liability and workers compensation insurance coverage.

19 3. On or about January 4, 1997, Respondent issued a certificate of insurance to Escalante
20 representing Reyneer [sic] Casualty Insurance Company as the general liability insurance carrier and
21 Intergon [sic] Choice Insurance Services as the workers compensation insurance carrier. The correct
22 names of the insurers are Rainier Insurance Company ("Rainier") and Integon Insurance ("Integon").
23

1 4. Respondent failed to complete and or forward to any application for insurance on behalf of
2 Escalante.

3 5. Respondent also failed to submit any of the premiums he collected from Escalante to Rainier,
4 Integon or any other insurer.

5 6. Respondent failed to procure general liability and workers compensation insurance for
6 Escalante though Rainier, Integon or any other insurer authorized to do business in this state.

7 7. To date, Escalante has not received a refund of his premium monies.

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

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

13 10. Respondent's conduct, as alleged above, constitutes a conduct of affairs under the license
14 showing licensee to be incompetent or a source of injury and loss to the public or any insurer within
15 the meaning of A.R.S. § 20-316(A)(7).

16 11. Respondent's conduct as alleged above constitutes the making of assertions, representations,
17 or statements with respect to the business of insurance which are untrue, deceptive or misleading,
18 within the meaning of A.R.S. § 20-444(A).

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

21 ...

22 ...

23


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

4 Pursuant to A.R.S. § 20-150, the Director delegates the authority vested in the Director of
5 Insurance of the State of Arizona, whether implied or expressed, to the Director of the Office of
6 Administrative Hearings or his designee to preside over the hearing of this matter as the
7 Administrative Law Judge, to make written recommendations to the Director of Insurance consisting
8 of proposed findings of fact, proposed conclusions of law, and a proposed order. This delegation
9 does not include delegation of the authority of the Director of Insurance to make the order on hearing
10 or other denial decision in this matter.

11 Pursuant to A.R.S. §41-1092.01, your hearing will be conducted through the Office of
12 Administrative Hearings, an independent agency. Enclosed is a copy of the procedures to be followed.

13 Persons with disabilities may request reasonable accommodations, such as interpreters,
14 alternative formats or assistance with physical accessibility, by contacting the office of administrative
15 hearings at (602) 542-9825. Requests should be made as early as possible to allow time to arrange the
16 accommodation.

17
18 EFFECTIVE THIS 16 day of May, 1997.

19
20 
21 _____
22 JOHN A. GREENE, Director
23 Arizona Department of Insurance

1 Copies of the foregoing mailed/delivered
this 16th day of May, 1997, to:

2 Francisco Barraz, III
3 736 North Center Avenue
4 Casa Grande, Arizona 85222

5 Assistant Attorney General
6 Consumer Protection and Antitrust Section
7 1275 West Washington
8 Phoenix, Arizona 85007
9 Attorney for the Department of Insurance

10 Charles R. Cohen, Deputy Director
11 John Gagne, Assistant Director
12 Maureen Catalioto, Licensing Supervisor
13 Arizona State Department of Insurance
14 2910 North 44th Street, Suite 210
15 Phoenix, Arizona 85018-7256

16 Mario Guevara
17 Office of Administrative Hearings
18 1700 West Washington, Suite 602
19 Phoenix, Arizona 85005

20 A courtesy copy of this Notice of Hearing has been mailed/delivered to the persons listed
21 below. If you are listed below, you will receive no further notices or documents concerning this
22 matter other than the Director's final order. Information about the status of this matter, including
23 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.

Escalante Engineering Enterprise, LLC
P.O. Box 157
Sells, Arizona 85634

Rainier Insurance Company
520 S.W. 6th, Suite 500
Portland, Oregon 97204

1 Integon Insurance
P.O. Box 1424
2 Winston Salem, North Carolina 27102-1424

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4 Curvey W. Burton / Kath
Curvey Walters Burton

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