

MAR 30 2005

DEPT OF INSURANCE  
BY CB

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

**BURNIS KENT FINLINSON;  
BRANDON KENT FINLINSON**

Respondents.

No. 05A-042- INS

**CONSENT ORDER**

The State of Arizona Department of Insurance ("Department") has received evidence that Burnis Kent Finlinson and Brandon Kent Finlinson ("Respondents") violated provisions of Title 20, Arizona Revised Statutes. Respondents wish to resolve this matter without the commencement of formal proceedings, and admit the following Findings of Fact are true and consent to entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Burnis Kent Finlinson is, and was at all material times, licensed as a non-resident accident/health and life insurance producer, Arizona license number 628341, which license expires August 31, 2005.

2. Brandon Kent Finlinson is, and was at all material times, licensed as a non-resident accident/health and life insurance producer, Arizona license number 33914, which license expires August 31, 2005.

3. Burnis Kent Finlinson is the father of Brandon Kent Finlinson. Both Respondents list their business address as the residence of Burnis Kent Finlinson.

4. On or about August 15, 1987, Burnis Kent Finlinson signed a general agent contract with North Coast Life Insurance Company ("NORCO") to transact life insurance business on its behalf.

1           5.     On or about August 15, 1995, Brandon Kent Finlinson signed a general agent  
2 contract with NORCO to transact life insurance business on its behalf.

3           6.     Between April 4, 1994 and August 27, 2002, Respondents wrote 17 life  
4 insurance policies through NORCO as summarized in the attached Exhibit A.

5           7.     On May 8, 2002, NORCO advised Brandon Finlinson of his need for increased  
6 compliance with underwriting requirements on the business he submits and encouraged him  
7 to accurately complete policy applications.

8           8.     On or about October 16, 2002 Brandon Kent Finlinson signed an Agent/Agency  
9 application with Americo Financial Life and Annuity Insurance Company ("Americo") to  
10 transact life insurance business on its behalf.

11          9.     On or about October 21, 2002 Burnis Kent Finlinson signed an Agent/Agency  
12 application with Americo to transact life insurance business on its behalf.

13          10.    Between July 14, 2003 and April 6, 2004, Respondents wrote 16 new life  
14 insurance policies with Americo to replace the 17 previously written NORCO policies  
15 summarized in Exhibit A.

16          11.    The sale of the Americo policies resulted in Respondents receiving \$10,790.79  
17 in commission from Americo. The clients did not benefit financially nor did they receive any  
18 substantive healthcare coverage benefit as a result of the policy conversions. Therefore,  
19 there was no basis for the clients to convert the policies.

20          12.    Respondents failed to disclose on the Americo applications that the applicants  
21 currently had existing coverage with NORCO and failed to complete a 1035 exchange form.  
22 The Respondents' failure to disclose the applicants' existing coverage with NORCO, coupled  
23 with their failure to complete a 1035 exchange form, resulted in the policyholders incurring



1 surrender charges and losing the cash value of their NORCO policies for a total loss in the  
2 amount of \$8,002.10.

3 13. Respondents knew or should have known that there was existing life insurance  
4 coverage in force with NORCO at the time of completing the new applications with Americo  
5 because they were the writing agents of the NORCO policies and they received periodic  
6 status updates on those policies from NORCO. Respondents also knew or should have  
7 known that because of the new transaction with Americo, the existing policies with NORCO  
8 had been or would be lapsed, forfeited, surrendered or partially surrendered within the  
9 meaning of A.R.S. §20-1241(11)(a).

10 14. On August 10, 2004, NORCO terminated Respondents' contracts

### 11 **CONCLUSIONS OF LAW**

12 1. The Director has jurisdiction over this matter.

13 2. Respondents' conduct as described above constitutes the failure of an  
14 insurance producer who initiates an application to submit an accurate statement to the insurer  
15 as to whether the applicant has an existing policy or contract, within the meaning of  
16 A.R.S. §20-1241.03.

17 3. Respondents' conduct as described above constitutes the intentional  
18 misrepresentation of an actual or proposed insurance contract or application for insurance  
19 within the meaning of A.R.S. §20-295(A)(5).

20 4. Respondents' conduct as described above constitutes using fraudulent,  
21 coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or  
22

1 financial irresponsibility in the conduct of business in this state or elsewhere within the  
2 meaning of A.R.S. §20-295(A)(8).

3 5. Grounds exist for the Director to suspend, revoke, or refuse to renew  
4 Respondents' insurance licenses, impose a civil penalty, order restitution and/or order  
5 Respondents to cease and desist pursuant to A.R.S. §§20-295(A), 20-295(B), 20-295(F) and  
6 20-295(G).

7 **ORDER**

8 IT IS HEREBY ORDERED THAT:

9 1. Respondents' insurance licenses are revoked effective immediately upon entry of  
10 this Order.

11 2. Respondents shall make restitution to the affected policyholders in the amounts set  
12 forth in Column "Q" of Exhibit A.

13 DATED AND EFFECTIVE this 29<sup>th</sup> day of March, 2005.

14  
15   
16 CHRISTINA URIAS  
17 Director of Insurance

18 **CONSENT TO ORDER**

19 1. Respondents have reviewed the foregoing Findings of Fact, Conclusions of Law  
20 and Order.

21 2. Respondents admit the jurisdiction of the Director of Insurance, State of  
22 Arizona, and admit the foregoing Findings of Fact and consent to the entry of the foregoing  
23 Conclusions of Law and Order.

1           3.     Respondents are aware of their right to notice and a hearing at which they may  
2 be represented by counsel, present evidence and examine witnesses. Respondents  
3 irrevocably waive their right to such notice and hearing and to any court appeals relating to  
4 this Consent Order.

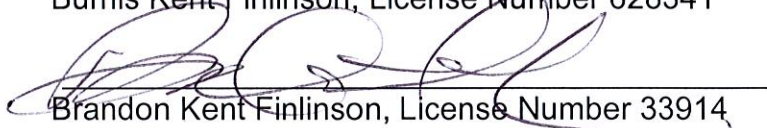
5           4.     Respondents state that no promise of any kind or nature whatsoever, except as  
6 expressly contained in this Consent Order, was made to them to induce them to enter into  
7 this Consent Order and that they have entered into this Consent Order voluntarily.

8           5.     Respondents acknowledge that the acceptance of this Consent Order by the  
9 Director is solely to settle this matter against them and does not preclude any other agency,  
10 officer, or subdivision of this state from instituting civil or criminal proceedings as may be  
11 appropriate now or in the future.

12 Date 3-24-05

  
Burnis Kent Finlinson, License Number 628341

14 Date 3/24/05

  
Brandon Kent Finlinson, License Number 33914

16 COPIES of the foregoing mailed/delivered  
17 this 30<sup>th</sup> day of March, 2005, to:

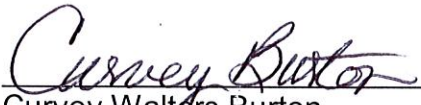
18 Burnis Kent Finlinson  
19 971 S. Morningside Dr.  
20 St. George, UT 84770

21 Brandon Kent Finlinson  
22 701 E. 900<sup>th</sup> South #2  
23 St. George, UT 84790



1 Burnis Kent Finlinson  
Brandon Kent Finlinson  
2 P.O. Box 910567  
St. George, UT 84791

3 Gerrie L. Marks, Deputy Director  
4 Catherine M. O'Neil, Consumer Legal Affairs Officer  
Steve Fromholtz, Licensing Supervisor  
5 Arnold Sniegowski, Investigations Supervisor  
Cheryl Hawley, Investigator  
6 Department of Insurance  
2910 North 44<sup>th</sup> Street, Suite 210  
7 Phoenix, Arizona 85018

8   
9 Curvey Walters Burton

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# EXHIBIT A

A	B	C	D	E	F	G	H	I	J
INSURED	NORCO APP DATE	AMERICO APP DATE	COMM ON AMERICO POLICY	DATE ALTIM STOPPED NORCO POLICY	DATE OF SURR OR LAPSE NORCO POLICY	NORCO POLICY LOAN ON AMERICO APP DATE	NET CASH SURR VALUE AMERICO APP DATE	NORCO POLICY STATUS	
1									
2	Dorothy Dele	7/25/01	4/6/04	\$619.20	4/13/04	5/25/04	\$0.00	\$765.81	Surrendered
3	Tiffannee Begay (1)	8/6/02	9/10/03	\$357.73	9/30/03	1/28/04	\$0.00	\$0.00	Lapsed
4	Berlinda Bryant	4/15/99	10/22/03	\$279.50	5/26/04	1/14/04	\$0.00	\$385.06	Surrendered
5	Danny Bryant	8/7/96	2/24/04	\$1,138.59	5/26/04	4/7/04	\$2,785.96	\$3,725.54	Surrendered
6	Ervin Bryant	3/20/96	9/10/03	\$406.81	5/26/04	1/20/04	\$599.25	\$348.22	Surrendered
7	Ervin Bryant		10/22/03	Incl Above					
8	Ryan Bryant	3/20/96	10/22/03	\$487.02	5/26/04	1/20/04	\$592.86	\$341.21	Surrendered
9	Yolanda Chee (1)	6/12/02	9/10/03	\$550.00	12/5/03	4/23/04	\$0.00	\$0.00	Lapsed
10	Alfred Nez	10/31/00	10/8/03	\$217.44	6/8/04	9/28/03	\$323.44	\$61.54	Surrendered
11	Edsley Toledo (2)	4/6/95	7/14/03	\$780.90	6/11/03	8/2/04	\$718.70	\$3,714.23	Terminated
12	Mary Toledo	8/27/98	7/14/03	\$1,095.68	6/11/03	1/3/05	\$2,672.82	\$98.73	Lapsed
13	Shawndean Toledo	4/4/94	7/14/03	\$885.80	6/11/03	N/A	\$1,795.84	\$1,483.25	Active by APL
14	Shawndean Toledo	5/3/99			6/11/03	3/5/05	\$402.05	\$324.47	Lapsed
15	Talettha Toledo (3)	9/15/98	7/14/03	\$311.78	2/5/03	See Below	\$704.16	\$0.00	See Below
16	Jim Tsinnjinnie (4)	8/1/01	9/10/03	\$1,815.00	9/30/03	11/8/03	\$0.00	\$0.00	Surrendered
17	Roland Watson	8/29/01	8/12/03	\$1,097.34	11/25/03	3/1/04	\$0.00	\$216.00	Surrendered
18	Walter Yellow (1)	8/27/02	2/17/04	\$748.00	3/2/04	2/24/04	\$0.00	\$0.00	Lapsed
19									
20	<b>TOTALS</b>			<b>\$10,790.79</b>			<b>\$10,595.08</b>	<b>\$11,464.06</b>	
21									
22	(2) The NORCO policies for Tiffannee Begay, Yolanda Chee and Walter Yellow were less than one year old and had not yet accrued.								
23	(2) The NORCO policy for Edsley Toledo terminated without value due to monthly payments and annual loan interest charges not being paid.								
24	(3) The total loss to insured Talettha Toledo has been calculated by subtracting the total policy loan on the date of the new application from the cash surrender value.								
25	The policy will terminate on 11/5/05 without additional payments								
26	(4) The NORCO policy for Jim Tsinnjinnie did not have a cash value until October 2003.								
27	The total loss to insured has been calculated by subtracting the cash surrender value paid to the insured from the cash value on the date of the new application.								

Prepared By: Cheryl Hawley, Investigator  
 March 14, 2005