STATE OF ARIZONA FILED

7 2006 AUG

1

2

3 4

5 6

7 8

9

10

12

11

13 14

15

16

17 18

19

20 21

22

23

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF JUSTINANCE

)
) No. 06A- 163-INS
)
) CONSENT ORDER
)

The State of Arizona Department of Insurance ("Department") has received evidence that MXGA, Inc., ("Respondent") violated provisions of Title 20, Arizona Revised Statutes. Respondent wishes to resolve this matter without the commencement of formal proceedings. and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

# FINDINGS OF FACT

- 1. Respondent was not licensed, at all material times, as either a resident or nonresident surplus lines broker or Mexican insurance surplus lines broker.
- 2. Respondent was not exempt from licensure as either a resident or non-resident surplus lines broker or Mexican insurance surplus lines broker.
- Between March 5, 2004 and July 3, 2006, Respondent transacted 281 Mexican 3. Surplus Lines insurance policies and paid \$\$8,529.42 in commission to F. Gaylon Young Insurance Agency, Inc. d.b.a. Rodney D. Young Insurance and National Insurance Centers, without a license.

### CONCLUSIONS OF LAW

- 1. The Director has jurisdiction over this matter.
- 2. Respondent's conduct as described above constitutes failure to comply with any requirement of Title 20, Article 5 within the meaning of A.R.S. §20-418(A) (1).

- Respondent's conduct, as alleged above, constitutes transacting Mexican
   Surplus Lines insurance without a license, within the meaning of A.R.S. §20-282 and 422(A).
- 4. Respondent's conduct as described above constitutes the unlawful payment of commission, within the meaning of A.R.S. §20-298(A).
- 5. Insurance contracts procured as surplus lines coverage are fully valid and enforceable as to all parties and shall be recognized in all matters in the same manner as like contracts issued by authorized insurers, within the meaning of A.R.S. § 20-410(A).
- 6. Grounds exist for the Director to deny or suspend, revoke, or refuse to renew any surplus lines broker's license and, in addition or in lieu thereof, may levy a civil penalty and/or order restitution pursuant to A.R.S. §§20-418(A).
- 7. Grounds exist for the Director to order Respondent to cease and desist from continuing the violation, engaging in the violation or doing any act in furtherance of the violation within the meaning of A.R.S. §401.02(A).

## **ORDER**

### IT IS HEREBY ORDERED THAT

- 1. Respondent shall immediately cease and desist from soliciting Mexican Surplus
  Lines insurance, taking or receiving any application for Mexican Surplus Lines insurance,
  taking or collecting any premium, commission, or any other consideration or service fee for
  any Mexican Surplus Lines insurance contract, or otherwise transacting Mexican Surplus Lines
  insurance business from offices or by personnel or facilities located in the State of Arizona.
- 2. Respondent shall pay a civil penalty in the amount of \$2,500 to the Director for deposit in the State General Fund in accordance with A.R.S. § 20-220(B).

19

20

21

22

23

- 3. Respondent is prohibited from maintaining any action in any court of this state to enforce any right, claim or demand arising out of the transaction of the business of Mexican Surplus lines insurance until and unless Respondent obtains either a surplus lines or Mexican insurance surplus lines license as set forth in A.R.S. § 20-405.
- 4. This Order shall become effective immediately and shall remain in full force and effect until otherwise stayed, modified, vacated or set aside.

DATED AND EFFECTIVE this \_\_\_\_\_\_ day of Angust, 2006.

CHISTINA URIAS Director of Insurance

# CONSENT TO ORDER

- 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
- 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.
- 3. Respondent is aware of its right to notice and a hearing at which it may be represented by counsel, present evidence and examine witnesses. Respondent irrevocably waives its right to such notice and hearing and to any court appeals relating to this Consent Order.
- 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

Curvey Walters Burton

23