

1 4. American's address of record with the Department is: 8141 Florentine Rd., Suite
2 A, Prescott Valley, Arizona 86314.

3 5. While unlicensed, American entered into the following contracts with insurers:

4 a. On January 29, 2003, American contracted with AIG Specialty Auto Insurance
5 Company ("AIG") to transact insurance on its behalf in Arizona. Hapner signed
6 the contract as Owner/Agent.

7 b. On March 18, 2004, American contracted with Phoenix Indemnity Insurance
8 Company ("Phoenix Indemnity") to transact insurance on its behalf in Arizona.
9 Hapner signed the contract as Owner/Broker.

10 c. On March 22, 2005, American contracted with Dairyland Insurance Company
11 ("Dairyland") to transact insurance on its behalf in Arizona. Hapner signed the
12 contract as Owner/Broker.

13 d. On May 17, 2006, American contracted with Bristol West Insurance Services
14 of Nevada, Inc. (the general agent for Coast National Insurance Company)
15 ("Bristol West") to transact insurance on its behalf in Arizona. Hapner signed the
16 contract as Owner/Broker.

17 6. On January 12, 2005, Hapner contracted with Victoria Insurance Company
18 ("Victoria") to transact insurance on its behalf in Arizona.

19 7. On March 7, 2006, Hapner contracted with AAA Members Insurance Company
20 and AAA Fire & Casualty ("AAA") to transact insurance on their behalf in Arizona.

21 8. Between January 1, 2006 and June 30, 2007, as a general business practice,
22 Respondents misrepresented insurance premium prices to their clients by charging fees that
23 were not filed with or approved by the Department. Respondents quoted the fees as part of
the premium and failed to disclose the fees to their clients as a separate charge. Between
January 1, 2006 and November 15, 2006, Respondents charged 233 clients \$4,748.73 in
unapproved fees.

 9. Between January 1, 2006 and June 30, 2007, Respondents failed to remit or
timely remit (72 hours) premium payments to insurers resulting in 64 policy cancellations.

1 During the same period, Respondents failed to remit a total of \$8,278.79 in premium payments
2 to insurers.

3 10. During January 1, 2006 and June 30, 2007, the following insurers received NSF
4 (Insufficient Funds) notices when they swept the American premium account:

- 5 a. Phoenix Indemnity - 19 NSF notices totaling \$19,539.63.
- 6 b. Victoria – 10 NSF notices totaling \$1,280.09.
- 7 c. Dairyland – 16 NSF notices totaling \$2,384.60.
- 8 d. AAA – 2 NSF notices totaling \$353.98
- 9 e. Bristol West – 3 NSF notices totaling \$159.20.
- 10 f. AIG – 12 NSF notices totaling \$1,977.84.

11 11. Between January 2006 and August 2006, seven policyholders paid Respondents
12 their policy premium in full. Respondents failed to remit these premium payments in full but
13 made monthly installments instead.

14 12. The public health, safety and welfare imperatively require emergency action.

15 **CONCLUSIONS OF LAW**

16 1. The Director has jurisdiction over this matter.

17 2. Respondents' conduct as described above constitutes improperly withholding,
18 misappropriating or converting any monies received in the course of doing insurance business,
19 within the meaning of A.R.S. § 20-295(A)(4).

20 3. Respondents' conduct as described above constitutes intentionally
21 misrepresenting the terms of an actual or proposed insurance contract or application for
22 insurance, within the meaning of A.R.S. § 20-295(A)(5).
23

1 **NOTICE OF HEARING**

2 PLEASE TAKE NOTICE that the above-captioned matter will be heard before the
3 Director of Insurance of the State of Arizona (the "Director") or her duly designated
4 representative on **October 23, 2007, at 9:00 a.m., at the Office of Administrative Hearings,**
5 **1400 West Washington, Suite 101, Phoenix, Arizona 85007**¹.

6 If you wish to continue this hearing to another date, you must file a motion in writing
7 with the Office of Administrative Hearings not less than 15 days before the scheduled hearing
8 date. Please send it to the attention of the Administrative Law Judge ("ALJ") and include the
9 docket number listed above. You must also mail or hand-deliver a copy of any motion to
10 continue to the Department of Insurance on the same date you file it with the Office of
11 Administrative Hearings.

12 You are not required to have an attorney represent you. However, if you are
13 represented, your attorney must be licensed to practice law in the State of Arizona. An
14 insurance company may be represented by a corporate officer. A.R.S. § 20-161(B).

15 You are entitled to be present during the giving of all evidence and you will have a
16 reasonable opportunity to inspect all documentary evidence, examine witnesses, present
17 evidence that supports your case and to request that the ALJ issue subpoenas to compel the
18 attendance of witnesses and production of evidence. A.R.S. §20-164(B).

19 A clear and accurate record of the proceedings will be made either by a court reporter
20 or by electronic means. A.R.S. §41-1092.07(E). If you want a copy of an electronic recording,
21 you must contact the Office of Administrative Hearings at (602) 542-9826. If the hearing was
22 transcribed by a court reporter and you want a copy of the transcript, you must pay the cost of
23 the transcript to the court reporter or other transcriber

If you have questions concerning this Summary Suspension and Notice of Hearing please
direct them to Assistant Attorney General Alyse Meislik, (602) 542-7727, 1275 West
Washington Street, Phoenix, Arizona 85007-2926.

¹As authorized under Arizona Revised Statutes ("A.R.S.") §§20-161 through and including
20-165 and Title 41, Chapter 6, Article 10 (A.R.S. § 41-1092 *et seq.*).

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AUG 29 2007

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