

MAR 31 2009

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:)
)
BRIAN JAMES BERGLUND; FIRST)
INSURANCE NETWORK OF ARIZONA INC)
)
Respondents.)
)
)
)
)
)

No. 09A- 044 - INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that Brian James Berglund and First Insurance Network of Arizona, Inc. ("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. Brian James Berglund ("Berglund " or "Respondent Berglund") is, and was at all material times, licensed as an Arizona resident accident/health and life and property and casualty insurance producer and surplus lines broker, Arizona license number 9616, which expires August 31, 2010.

2. First Insurance Network of Arizona, Inc. ("FINA" or "Respondent FINA") is, and was at all material times, licensed as an Arizona resident property and casualty insurance producer, Arizona license number 163992, which expires October 31, 2009. Berglund is the owner/operator of FINA.

3. During the course of business, Respondents routinely arranged premium financing for their clients through First Insurance Funding Corporation.

1 4. From May 22, 2007 through July 7, 2008, Respondents withheld \$5,865.55 in
2 unearned commission on ten policies cancelled by First Insurance Funding Corporation.

3 5. Respondent's were never billed by the insurance carriers for any unearned
4 commission.

5 6. After initiation of a Department investigation on November 19, 2008, and
6 clarification that the unearned commission was due to the premium finance company rather
7 than the insurance carrier, Respondents began making unearned commission refund
8 payments to First Insurance Funding Corporation. Respondents have paid the unearned
9 commission in full as of February 4, 2009.

10 **CONCLUSIONS OF LAW**

11 1. The Director has jurisdiction over this matter.

12 2. Respondents' conduct as described above constitutes improperly withholding
13 monies received in the course of doing insurance business, within the meaning of A.R.S. §20-
14 295(A)(4).

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

18 4. Grounds exist for the Director to impose, in addition to or instead of any
19 suspension, revocation or refusal to renew, a civil penalty of not more than \$250.00 for each
20 unintentional failure or violation, up to an aggregate civil penalty of \$2,500.00, or a civil penalty
21 of not more than \$2,500.00 for each intentional failure or violation, up to an aggregate penalty
22 of \$15,000.00, within the meaning of A.R.S. §20-295(F).

1 **ORDER**

2 IT IS HEREBY ORDERED THAT:

3 1. Respondents shall pay a civil penalty in the amount of \$1,500.00 to the Director
4 for deposit in the State General Fund in accordance with A.R.S. § 20-295(G). A down
5 payment of \$750.00 will be due at the signing of the Consent Order and \$750.00 due May 18,
6 2009.

7 DATED AND EFFECTIVE this 26th day of March, 2009.

8 
9 _____
10 CHRISTINA URIAS
11 Director of Insurance

12 **CONSENT TO ORDER**

13 1. Respondents have reviewed the foregoing Findings of Fact, Conclusions of Law
14 and Order.

15 2. Respondents admit the jurisdiction of the Director of Insurance, State of Arizona,
16 and admit the foregoing Findings of Fact and consent to the entry of the foregoing
17 Conclusions of Law and Order.

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

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

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

5 6. Respondents acknowledge that this Consent Order is an administrative action
6 that the Department will report to the National Association of Insurance Commissioners
7 (NAIC). Respondents further acknowledge that they must report this administrative action to
8 any and all states in which they hold an insurance license and must disclose this
9 administrative action on any license application.

10 7. Brian James Berglund represents that he is owner/operator of First Insurance
11 Network of Arizona, Inc., and as such is authorized to enter this Consent Order on its behalf.

12 3-26-09

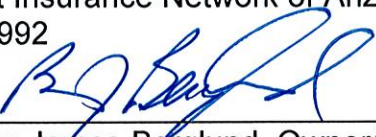
13 Date

12 
13 _____
14 Brian James Berglund, License No. 9616

14 First Insurance Network of Arizona, Inc., License No.
15 163992

15 3-26-09

16 Date

15 
16 _____
17 Brian James Berglund, Owner/Operator

18 COPIES of the foregoing mailed/delivered
19 this 31st day of March, 2009, to:

20 Brian James Berglund
21 First Insurance Network of Arizona, Inc.
22 5625 E. Indian School Rd.
23 Phoenix, AZ 85018
(Respondents)

Mary Kosinski, Executive Assistant for Regulatory Affairs

1 Catherine M. O'Neil, Consumer Legal Affairs Officer
Terry Cooper, Assistant Director
2 Steve Fromholtz, Licensing Supervisor
Arnold Sniegowski, Investigations
3 Department of Insurance
2910 North 44th Street, Suite 210
4 Phoenix, Arizona 85018

5 
Curvey Walters Burton

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