

DEC 14 2009

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY 

In the Matter of )  
)  
CAIN, ROSE MARY, )  
(Arizona License # 152158), )  
EMD BROKERAGE GROUP, LLC, )  
(Arizona License #948393), and )  
INTERNATIONAL CASUALTY WRITERS, )  
LLC, (Arizona License #880674), )  
)  
Respondents. )

Docket No. 09A-126-INS  
  
FIRST AMENDED ORDER  
SUMMARILY SUSPENDING  
INSURANCE PRODUCER LICENSE  
AND NOTICE OF HEARING  
  
(Administrative Law Judge  
Kay Abramsohn)

The Arizona Department of Insurance (the "Department") hereby amends its Order Summarily Suspending Insurance Producer License and Notice of Hearing. The Department alleges that **Rose Mary Cain, EMD Brokerage Group, LLC and International Casualty Writers, LLC ("Respondents")** have violated provisions of Arizona Revised Statutes ("A.R.S."), Title 20. In light of the serious nature of these allegations, the Director of Insurance for the State of Arizona ("Director") finds that the public health, safety and welfare imperatively require emergency action, within the meaning of A.R.S. §41-1092.11(B).

**FINDINGS OF FACT**

1. Rose Mary Cain ("Cain" or "Respondent Cain") is, and was at all times material, licensed as a resident accident/health, property, casualty producer and surplus lines broker, Arizona license # 152158, which expires on October 31, 2012.
2. Cain's address of record with the Department is: 20102 E. Camina Buena Vista, Queen Creek, Arizona 85242.
3. EMD Brokerage Group, LLC ("EMD" or "Respondent EMD") is, and was at all times material, licensed as a resident accident/health, property and casualty producer, Arizona

1 license # 948393, which expires on July 31, 2013. Cain is the Manager/Member and  
2 Designated Responsible Licensed Producer for EMD.

3 4. EMD's address of record with the Department is: 20102 E. Camina Buena Vista,  
4 Queen Creek, Arizona 85242.

5 5. International Casualty Writers, LLC ("ICW" or "Respondent ICW") is, and was at  
6 all times material, licensed as a resident accident/health, property and casualty producer and  
7 surplus lines broker, Arizona license # 880674, which expires on December 31, 2010. Cain is  
8 the Member and Designed Responsible Licensed Producer for ICW.

9 6. ICW's address of record with the Department is: 18251 E. Queen Creek Rd.,  
10 Suite 105 #173, Queen Creek, Arizona 85242.

11 7. On September 9, 2009, Rockwood Programs, Inc. filed a complaint with the  
12 Department ("Rockwood Complaint"). The Rockwood Complaint stated that on or about April  
13 16, 2009, Edgewood Partners Insurance Center ("EPIC") contacted Cain to place coverage for  
14 Bad Boyz Bail Bonds. Because Cain did not have direct access to market the specific type of  
15 risk being requested, Cain contacted Rockwood Programs, Inc. ("Rockwood") for placement of  
16 the coverage.

17 8. On April 24, 2009, Rockwood provided Cain a quote for two policies underwritten  
18 by Beazley USA Service, Inc. ("Beazley policies").

19 9. On June 1, 2009, Bad Boyz Bail Bonds deposited \$25,829.96 with Premium  
20 Assignment Corporation (a premium finance company) for purchase of the Beazley policies.  
21 The balance of the premium due, \$73,634.06, was financed by Premium Assignment  
22 Corporation and paid directly to EPIC.  
23

1           10.     June 9, 2009, EPIC wire-transferred \$73,634.06 to EMD's U.S. Bank Account,  
2 xxxxxxxx0051.

3           11.     On June 22, 2009 and July 16, 2009, Rockwood sent Cain invoices for the  
4 premium due on the Beazley policies.

5           12.     On August 4, 2009, Beazley USA Service, Inc. noticed the Beazley policies for  
6 cancellation for non-payment of premium.

7           13.     On August 17, 2009, EMD issued two checks for payment of the premium to  
8 Rockwood totaling \$58,885.00 written from EMD's U.S. Bank Account, xxxxxxxx0051. U.S.  
9 Bank returned the checks as non-payable because the EMD U.S. Bank Account had been  
10 frozen.

11           14.     On September 30, 2009, the Department contacted Cain regarding the  
12 Rockwood Complaint and requested a written response with supporting documentation by  
13 October 15, 2009.

14           15.     On October 15, 2009, Cain provided documents to the Department but could not  
15 provide information regarding the missing premium payment. The Department provided Cain  
16 an extension to October 19, 2009 to provide information about the missing premium payment.

17           16.     To date, Cain has not provided any information regarding the missing premium  
18 payment.

19           17.     In addition to the Rockwood complaint, the Department has received other  
20 complaints of misappropriation of premium by Cain, EMD or ICW.

21           18.     Effective September 1, 2009, Cain rewrote a workers' compensation policy  
22 through New Mexico Mutual for Bell Ranch Partnership, Ltd., which is a subsidiary of Lane  
23 Industries in Northbrook, Illinois, ("Bell/Lane"). Between September 21, 2009 and October 5,

1 2009, Cain collected \$48,147.00 in premium from Bell/Lane via wire transfer. On October 19,  
2 2009, New Mexico Mutual issued a notice of cancellation effective November 3, 2009, for  
3 nonpayment of premium.

4 19. On or about October 28, 2009, Cain wired \$5,000.00 to New Mexico Mutual. To  
5 date, Cain has not remitted any additional premium to New Mexico Mutual.

6 20. The public health, safety and welfare imperatively require emergency action.

### 7 CONCLUSIONS OF LAW

8 1. The Director has jurisdiction.

9 2. Respondents' conduct constitutes improperly withholding, misappropriating or  
10 converting any monies or properties received in the course of doing insurance business, within  
11 the meaning of A.R.S. § 20-295(A)(4).

12 3. Grounds exist to order a summary suspension within the meaning of A.R.S. §§  
13 41-1092.11(B).

14 4. Grounds exist for the director to suspend, revoke or refuse to renew  
15 Respondents' licenses, within the meaning of A.R.S. § 20-295(A) and (B).

16 5. Grounds exist for the director to, in addition to any suspension, revocation or  
17 refusal to renew a license, impose a civil penalty and order Respondents to provide restitution  
18 to any party injured by their action, within the meaning of A.R.S. § 20-295(F).

### 19 ORDER

20 IT IS HEREBY ORDERED THAT:

21 1. Respondent Cain's Arizona producer license # 152158 is summarily suspended  
22 effective immediately.  
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2. Respondent EMD's Arizona producer license # 948393 is summarily suspended effective immediately.

3. Respondent ICW's Arizona producer license # 880674 is summarily suspended effective immediately.

DATED AND EFFECTIVE this 14<sup>th</sup> day of December 2009.

  
CHISTINA URIAS  
Director of Insurance

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director") or her duly designated representative on **February 22, 2010, at 1:00 to 5:00 p.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007**<sup>1</sup>.

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

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

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<sup>1</sup>As 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.*).

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

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

10 If you have questions concerning this Amended Summary Suspension and Notice of  
11 Hearing please direct them to **Assistant Attorney General Lynette Evans, (602) 542-7701,**  
12 **1275 West Washington Street, Phoenix, Arizona 85007-2926.**

#### 13 **NOTICE OF APPLICABLE RULES**

14 On January 23, 1992, we adopted the rules of practice and procedure applicable in  
15 contested cases before the Director of Insurance. The hearing will be conducted pursuant to  
16 these rules. A.A.C. R20-6-101 through R20-6-115.

17 **YOU MUST FILE A WRITTEN RESPONSE (ANSWER) TO THE ALLEGATIONS IN**  
18 **THIS NOTICE WITH US WITHIN 20 DAYS AFTER WE ISSUE THIS NOTICE. A.A.C.**  
19 **R20-6-106. YOUR RESPONSE SHOULD STATE YOUR POSITION OR DEFENSE AND**  
20 **SHOULD SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE. IF YOU**  
21 **DO NOT SPECIFICALLY DENY AN ASSERTION, WE WILL CONSIDER IT ADMITTED. ANY**  
22 **DEFENSE YOU DO NOT RAISE WILL BE CONSIDERED WAIVED.**

23 **IF YOU DO NOT FILE YOUR RESPONSE ON TIME, WE WILL CONSIDER YOU IN**  
24 **DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS IN THE NOTICE AS**  
25 **TRUE. ACCORDINGLY, WE WILL TAKE WHATEVER ACTION IS APPROPRIATE**  
26 **INCLUDING SUSPENSION, REVOCATION, IMPOSITION OF A CIVIL PENALTY AND**  
27 **ORDERING RESTITUTION TO ANY INJURED PERSON.**

1 **PERSONS WITH DISABILITIES**

2 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE  
3 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR  
4 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS  
5 SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE THE  
6 ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE  
7 OFFICE OF ADMINISTRATIVE HEARINGS AT (602) 542-9826.

8  
9  
10 COPY of the foregoing mailed, return receipt requested,  
this 14th day of Dec., 2009, to:

11 Rose Mary Cain  
12 20102 E. Camina Buena Vista  
13 Queen Creek, Arizona 85242  
14 Respondent

15 Donald Heck PLC  
16 16065 N Boulder Dr  
17 Fountain Hills, Arizona 85268  
18 Attorney for Respondent Cain

19 EMD Brokerage Group, LLC  
20 20102 E. Camina Buena Vista  
21 Queen Creek, Arizona 85142  
22 Respondent

23 International Casualty Writers, LLC  
18251 E. Queen Creek Rd., Suite 105 #173  
Queen Creek, Arizona 85142  
Respondent

...

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...

1 COPY of the foregoing mailed  
this 14th day of December, 2009, to:

2 Gerrie Marks, Deputy Director  
3 Mary Butterfield, Assistant Director  
4 Mary E. Kosinski, Exec. Asst. – Regulatory Affairs  
5 Steven Fromholtz, Licensing Administrator  
6 Arnold Sniegowski, Investigator  
7 Arizona Department of Insurance  
8 2910 N. 44th Street, Suite 210  
9 Phoenix, Arizona 85018

7 Lynette Evans  
8 Office of the Attorney General  
9 Consumer Protection and Advocacy Section  
10 Agency Unit  
11 1275 W. Washington  
12 Phoenix, Arizona 85007-2997

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11 \_\_\_\_\_  
12 Curvey Burton

12 643091

14 PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE  
15 **CERTIFIED MAIL™**



18 7008 0150 0002 7596 1117

14 PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE  
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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE  
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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE  
21 **CERTIFIED MAIL™**



23 7008 0150 0002 7596 1148