

JUN 4 2010

DEPT OF INSURANCE  
BY [Signature]

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

**LIBRA BONDING COMPANY, LLC and  
JOEL CLIFFORD McPHAILL**

Respondents.

No. 10A-024-INS

**CONSENT ORDER**

The State of Arizona Department of Insurance ("Department") has received evidence that **Libra Bonding Company, LLC and Joel Clifford McPhaill** ("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. **Libra Bonding Company, LLC** ("Libra") is, and was at all material times, licensed as an Arizona resident bail bond agent, Arizona license number 898441, which expires August 31, 2011

2. **Joel Clifford McPhaill** ("McPhaill") is, and was at all material times, licensed as an Arizona resident bail bond agent, Arizona license number 883184, which expires September 30, 2010. McPhaill is the Member/Owner of Libra.

3. On June 5, 2009, the Department received a complaint from **Warren Green** ("Green") stating that he saw an employee of Respondents riding his motorcycle.

4. On July 28, 2008, Green purchased two bonds from Respondents: one for \$50,000 (D-555030019) and one for \$40,000 (D-555029206). Terri Cook, Green's girlfriend, paid the \$5,000 premium for bond D-555030019 with a credit card. Green paid the \$4,000

1 premium for bond D-555029206 by putting his 2000 Big Dog model motorcycle ("Green's  
2 motorcycle") up as collateral for the premium payment. The bonds (D-555030019 for  
3 \$50,000 and D-555029206 for \$40,000) were secured with deeds of trust on two of Green's  
4 friends' homes with aggregate value of \$90,000. At the time of the bonds purchase,  
5 Respondents gave Green a receipt for the motorcycle but did not value the motorcycle, which  
6 was not running. Respondents took possession of the motorcycle at the time of the bonds  
7 purchase.

8 5. On May 4, 2009, one of the properties securing the bonds was foreclosed upon.

9 6. On January 22, 2009, Respondents sent Green an invoice showing an  
10 outstanding balance of \$4,975 on the bonds.

11 7. On January 27, 2009, Cheryl Savory called and spoke with Respondents  
12 regarding Green's motorcycle. Respondents told Ms. Savory that Green's motorcycle could  
13 be repurchased for \$3,000 which would settle the remaining balance on Green's account.

14 8. On February 29, 2009, Respondents sold Green's motorcycle to one of it's  
15 subcontractors for \$5,000. Respondents assert that they mailed to Green written notification  
16 of the sale of the motorcycle to satisfy the remaining balance. Green claims that he never  
17 received said notice. Respondents are unable to provide evidence of the written notice to  
18 Green.

### 19 **CONCLUSIONS OF LAW**

20 1. The Director has jurisdiction over this matter.

21 2. Respondent's conduct as described above constitutes a failure to keep at the  
22 agent's place of business the usual and customary records pertaining to transaction made  
23

1 under the license for three years immediately after the date of the completion of the  
2 transaction within the meaning of A.R.S. §20-340.01(F).

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

6 **ORDER**

7 **IT IS HEREBY ORDERED THAT**

8 1. Respondent shall immediately pay a Civil Penalty in the amount of \$500.00 for  
9 deposit into the General Fund.

10 DATED AND EFFECTIVE this 4<sup>th</sup> day of June, 2010.

11   
12 \_\_\_\_\_  
13 CHRISTINA URIAS  
14 Director of Insurance

14 **CONSENT TO ORDER**

15 1. Respondents have reviewed the foregoing Findings of Fact, Conclusions of Law  
16 and Order.

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

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

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

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

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


13           7.       Joel Clifford McPhaill, Jr. represents that he is the Member/Owner of Libra  
14 Bonding Company, LLC and, as such, is authorized to enter this Consent Order on its behalf.

15  
16       31 MAY 2010  
Date

  
Joel Clifford McPhaill, License No. 883184

Libra Bonding Company, LLC.

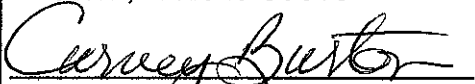
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Date

  
Joel Clifford McPhaill, Jr., Member/Owner

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COPIES of the foregoing mailed/delivered  
this 4th day of June, 2009, to:

Joel Clifford McPhail  
Libra Bonding Company, LLC  
5630 Highway 95, #2  
Fort Mohave, Arizona 86426  
Respondents  
Mary E. Kosinski, Exec. Assistant for Reg. Affairs  
Catherine M. O'Neil, Consumer Legal Affairs Officer  
Chuck Gregory, Investigations Supervisor  
Steve Fromholtz, Licensing Supervisor  
Daniel Ray, Investigator  
Department of Insurance  
2910 North 44<sup>th</sup> Street, Suite 210  
Phoenix, Arizona 85018

  
Curvey Walters Burton