


STATE OF ARIZONA  
FILED

FEB 13 2013

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY 

In the Matter of:

**PACIFIC WHOLESALE INS. BROKERS,  
LLC,**  
(Arizona License # 190355)

No. 12A-178-INS

Respondent.

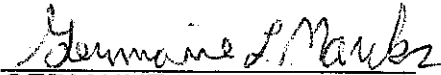
**NUNC PRO TUNC ORDER  
AMENDING CAPTION AND  
AMENDING ORDER**

On January 18, 2013, the Arizona Department of Insurance filed a Final Administrative Decision, In the Matter of: Pacific Wholesale Ins. Brokers, LLC and Harrell, Stephen Davis, Docket No. 12A-178-INS (the "Order"). The caption erroneously listed Stephen Davis Harrell as a Respondent and the Order erroneously found that Stephen Davis Harrell was the designated producer for Pacific Wholesale Ins. Brokers, LLC at all relevant times.

THEREFORE, IT IS ORDERED, NUNC PRO TUNC:

Amending the caption and the Order. The amended Order is attached and incorporated by this reference.


DATED this 13<sup>th</sup> day of February, 2013.

  
GERMAINE L. MARKS, Director  
Arizona Department of Insurance

COPY of the foregoing mailed this  
13<sup>th</sup> day of February, 2013 to:

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Curvey Burton

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In the Matter of:

**PACIFIC WHOLESALE INS. BROKERS,  
LLC,**  
(Arizona License # 190355)

Respondent.

No. 12A-178-INS

**AMENDED FINAL ADMINISTRATIVE  
DECISION**

**FINDINGS OF FACT**

1. Pacific Wholesale Ins. Brokers, LLC ("Pacific Wholesale") is, and at all times material, a Georgia-domiciled company licensed in Arizona as a non-resident with authority as a property insurance producer, casualty insurance producer, and surplus lines broker, Arizona license number 190355. Pacific Wholesale's property and casualty lines of authority expired on December 12, 2012, and its surplus lines broker line of authority expired on August 21, 2012.

2. Pacific Wholesale's address of record is: 4501 Circle 75 Pkwy, #F6200, Atlanta, GA 30339 (business and mailing).

3. Jeffrey Young Martin (Arizona license number 182339) was, at all material times, the designated producer for Pacific Wholesale within the meaning of A.R.S. § 20-285(C)(3).

4. On or about October 19, 2012, the Surplus Lines Association of Arizona ("SLA") provided a Surplus Lines Delinquent Tax Report to the Department and to Pacific Wholesale showing that Pacific Wholesale owed \$36,661.24 in delinquent taxes and penalties ("DTR000672"). Pacific Wholesale had 30 days to appeal DTR000672.

5. On or about October 22, 2012, the SLA provided a Surplus Lines Delinquent Tax Report to the Department and to Pacific Wholesale showing that Pacific Wholesale

1 owed \$2,444.08 in delinquent taxes and penalties ("DTR000675"). Pacific Wholesale had  
2 30 days to appeal DTR000675<sup>1</sup>.

3 6. On or about October 25, 2012, Pacific Wholesale notified the Department of  
4 its discovery of an unintentional premium and surplus lines tax shortage in its Premium  
5 Trust Account ("Pacific Wholesale's October 25 letter"). In lieu of immediate payment of  
6 the shortage, Pacific Wholesale offered a Promissory Note and/or payment plan<sup>2</sup>. Pacific  
7 Wholesale also asked the Department to waive all late fees and penalties.

8 7. On or about October 25, 2012, the Department responded to Pacific  
9 Wholesale's letter requesting full payment of DTR000672 by November 2, 2012, and  
10 payment of all other premium tax amounts owed. The Department also stated that it did  
11 not consider Pacific Wholesale's October 25, 2012 letter to constitute an appeal of the  
12 amounts owed.

13 8. As of this date, Pacific Wholesale has not appealed DTR000672 or  
14 DTR000675 and has not complied with the Department's request to pay DTR000672 and  
15 all other premium tax amounts owed.

16 9. As of this date, Pacific Wholesale owes \$50,517.06 in unpaid premium tax,  
17 inclusive of the amounts specified on DTR000672 and DTR000675, consisting of

18 a. \$1,228.83, based on 3% of the \$40,961.00 in surplus lines insurance  
19 premiums and fees for policies that Pacific Wholesale procured between January 1  
20 and June 30, 2012, for which Pacific Wholesale did not file with the Department a  
21 statement of surplus lines insurance business ("Statement") as required by A.R.S.  
22 § 20-415 or remit premium tax as required by A.R.S. § 20-416.

23  
24 <sup>1</sup> As of October 22, 2012, Pacific Wholesale's total surplus lines tax delinquency equaled  
\$39,105.32.

25 <sup>2</sup> Pacific Wholesale proposed a payment plan of \$500.00 per month from January, 2013  
26 through August, 2013 and then \$1,000.00 per month until the balance was paid.

1           b.     \$24,110.10, based on 3% of the \$803,670.00 in surplus lines  
2 insurance premiums and fees for policies that Pacific Wholesale procured between  
3 July 1 and December 31, 2011, for which Pacific Wholesale did not file with the  
4 Department a Statement or remit premium tax.

5           c.     \$3,793.44, based on 3% of the \$126,448.00 in surplus lines insurance  
6 premiums and fees for policies that Pacific Wholesale procured between January 1  
7 and June 30, 2011, for which Pacific Wholesale did not file with the Department a  
8 Statement or remit premium tax.

9           d.     (\$2,850.42), based on 3% of the \$77,337.00 in surplus lines insurance  
10 premiums and fees for policies that Pacific Wholesale procured between July 1 and  
11 December 31, 2010, which resulted in \$2,320.11 of premium taxed owed for the  
12 period, less the amount of \$5,170.53, which was part of Pacific Wholesale's  
13 \$7,125.12 payment with check 17108 dated November 18, 2011, which was  
14 received by the Department on or about November 25, 2011. Pacific Wholesale's  
15 payment was not accompanied by the Statement required by A.R.S. § 20-416, but  
16 instead, was accompanied by a document entitled, "Pacific Wholesale Insurance  
17 Brokers – [30]," included as **Exhibit A**. The Department allocated Pacific  
18 Wholesale's tax payment based on the transactions identified on Pacific Wholesale's  
19 document.

20           e.     \$181.68, based on 3% of the \$191,215.67 in surplus lines insurance  
21 premiums and fees for policies that Pacific Wholesale procured between January 1  
22 and June 30, 2010, which resulted in \$5,736.47 in premium tax owed for the period,  
23 less the \$5,554.79 that Pacific Wholesale paid with its Statement for the period,  
24 which the Department received on August 10, 2010. On September 10, 2010,  
25 Pacific Wholesale reported to the SLA an additional transaction that was effective  
26

1 during the period involving \$6,056.00 in premium for which Pacific Wholesale did not  
2 file an amended Statement or pay the additional \$181.68 in premium tax.

3 f. \$18,810.00, based on 3% of the \$1,402,373.00 in surplus lines  
4 insurance premiums and fees for policies that Pacific Wholesale procured between  
5 July 1 and December 31, 2009, which resulted in \$42,071.19 of premium taxed  
6 owed for the period, less the amount of \$23,261.19 that Pacific Wholesale paid with  
7 its Statement for the period, which the Department received on March 19, 2010. On  
8 August 16, 2010, Pacific Wholesale reported to the SLA an additional transaction  
9 that was effective during the period involving \$627,000.00 in premium for which  
10 Pacific Wholesale did not file an amended Statement or pay the additional  
11 \$18,810.00 in premium tax.

12 g. \$251.01, based on 3% of the \$247,244.00 in surplus lines insurance  
13 premiums and fees for policies that Pacific Wholesale procured between January 1  
14 and June 30, 2009, which resulted in \$7,417.32 of premium taxed owed for the  
15 period, less the following amounts: \$5,162.73 that Pacific Wholesale paid with its  
16 Statement for the period, which the Department received on August 31, 2009;  
17 \$1,954.59 from Pacific Wholesale's payment dated November 18, 2011, with check  
18 17108, for transactions detailed on Exhibit A; a transfer of \$48.99 from another  
19 period, which the Department entered on November 9, 2011, shown in Exhibit B.

20 h. \$1,546.29, based on 3% of the \$845,076.00 in surplus lines insurance  
21 premiums and fees for policies that Pacific Wholesale procured between July 1 and  
22 December 31, 2008, which resulted in \$25,352.28 of premium taxed owed for the  
23 period, less \$23,982.33 that Pacific Wholesale paid with its Statement for the period,  
24 which Pacific Wholesale filed on June 11, 2009, and the Department received on  
25 June 15, 2009; \$63.75 from Pacific Wholesale's payment dated November 18, 2011,  
26

1 which check 17108, for transactions detailed on Exhibit A; and (\$240.09), which the  
2 Department transferred to other periods as shown in Exhibit B.

3 i. \$3,401.13, based on 3% of the \$337,068.00 in surplus lines insurance  
4 premiums and fees for policies that Pacific Wholesale procured between January 1  
5 and June 30, 2008, which resulted in \$10,112.04 of premium taxed owed for the  
6 period, less the following amounts: \$6,454.56 that Pacific Wholesale paid with its  
7 Statement for the period, which Pacific Wholesale filed and the Department received  
8 on August 29, 2008; \$65.25 from Pacific Wholesale's payment dated November 18,  
9 2011, which check 17108, for transactions detailed on Exhibit A; and, a transfer of  
10 \$191.10 from another period, which the Department entered on November 9, 2011,  
11 shown in Exhibit B.

12 j. \$3,164.55, based on 3% of the \$426,485.00 in surplus lines insurance  
13 premiums and fees for policies that Pacific Wholesale procured between July 1 and  
14 December 31, 2007, which resulted in \$12,794.55 of premium taxed owed for the  
15 period, less \$9,630.00 that Pacific Wholesale paid with its Statement for the period,  
16 which the Department received February 26, 2008.

17 k. (\$3,119.55) relating to the period of January 1 through June 30, 2007,  
18 based on 3% of a \$103,985.00 adjusting entry that Pacific Wholesale filed with the  
19 SLA on August 20, 2010.

#### 20 CONCLUSIONS OF LAW

- 21 1. The Director has jurisdiction over this matter.
- 22 2. Respondent's conduct, as alleged above, constitutes failing to file with the  
23 Director on or before the date specified in A.R.S. § 20-415, subsection B, a statement of all  
24 surplus lines insurance business covering Arizona single-state risks transacted by the  
25 broker during the period for which the statement is required to be filed, in violation of A.R.S.  
26 § 20-415(A).





**EXHIBIT A - REDACTED.** The document contains personal information that may be inappropriate for public disclosure, including names, addresses, contract numbers, amount requested by claimant, final determinations of claim amounts and calculated distribution amounts.

## EXHIBIT B

### Adjustments Entered November 9, 2011

<b>Transfer from taxes due 3/1/2009</b> <i>(for surplus lines insurance procured between 7/1/2008 and 12/31/2008)</i>	<b>(\$240.09)</b>
<b>Transfer to pay taxes due 9/1/2008</b> <i>(for surplus lines insurance procured between 1/1/2008 and 6/30/2008)</i>	<b>\$191.10</b>
<b>Transfer to pay taxes due 9/1/2009</b> <i>(for surplus lines insurance procured between 1/1/2009 and 6/30/2009)</i>	<b>\$48.99</b>

## EXHIBIT C: Summary of Tax and Penalties Due

Tax Due Date	Tax Due	Adjustments*	Adjusted Tax Due	Days Late**	Per Day Penalty	Total Penalty
8/15/2012	1,228.83		1,228.83	163	\$ 2.4577	400.61
2/15/2012	24,110.10		24,110.10	345	\$ 25.0000	8,625.00
9/1/2011	3,793.44		3,793.44	512	\$ 7.5869	3,793.44
3/1/2011	(2,850.42)	[B] 45.00 [C] 2,805.42	-			
9/1/2010	181.68		181.68	877	\$ 0.3634	181.68
3/1/2010	18,810.00		18,810.00	1,061	\$ 25.0000	18,810.00
9/1/2009	251.01		251.01	1,242	\$ 0.5020	251.01
3/1/2009	1,546.29		1,546.29	1,426	\$ 3.0926	1,546.29
9/1/2008	3,401.13	[C] (2,805.42)	595.71	1,607	\$ 1.1914	595.71
3/1/2008	3,164.55	[A] (3,119.55) [B] (45.00)	-			
9/1/2007	(3,119.55)	[A] 3,119.55	-			
3/1/2007	-		-			
<b>TOTAL</b>	<b>50,517.06</b>	<b>-</b>	<b>50,517.06</b>			<b>34,203.74</b>

\* Reallocation of overpaid tax to oldest underpaid tax.

\*\* Assumes tax payment on 1/25/2013.