

STATE OF ARIZONA
Department of Insurance and Financial Institutions
FILED September 24, 2024 by MK

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

No. 23A-085-INS

GUTIERREZ, GUADALUPE JOE

ORDER

(National Producer Number 17485004)

Respondent.

On September 4, 2024, the Office of Administrative Hearings, through Administrative Law Judge Adam D. Stone, issued an Administrative Law Judge Decision (“Recommended Decision”). The Arizona Department of Insurance and Financial Institutions’ (“Department”) Director (“Director”) received the Recommended Decision on the same date, a copy of which is attached and incorporated by reference. Respondent failed to accept the Recommended Decision within ten days of receipt. Therefore, the Director has reviewed the Recommended Decision and enters the following:

1. The Director ADOPTS the Findings of Fact, except to correct the following:
 - Page 1 line 19 should read, “with a line of authority in **life** insurance.”
 - Page 4 line 7 should read, “...asserting that his mother was **sick** ...”
2. The Director ADOPTS the Conclusions of Law;
3. The Director ADOPTS the Recommended Order; and
4. The Director ORDERS that:
 - Guadalupe Joe Gutierrez’s Arizona resident insurance producer license, National Producer Number 17485004, is revoked effective immediately

- Guadalupe Joe Gutierrez shall pay restitution to Yuly Gilgur for the following chargebacks¹:
 - Accordia Life and Annuity Company in the amount of \$7,560.00.
 - Global Atlantic in the amount of \$1,680.00.
 - Americo Financial Life and Annuity Insurance Company in the amount of \$5,304.61.
 - Athene Annuity and Life Company in the amount of \$4,725.88.
 - American-Amicable Life Insurance Company in the amount of \$3,705.56.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Respondent may request a rehearing or review with respect to this Order by filing a written motion with the Department within 30 days after the date of this Order, setting forth the basis for relief under Arizona Administrative Code R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to the Superior Court.

Respondent may appeal the final decision of the Department to the Superior Court of Maricopa County for judicial review, pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

DATED and EFFECTIVE this 24th day of September, 2024.

Barbara D. Richardson

Barbara D. Richardson, Director
Arizona Department of Insurance and Financial Institutions

¹ Unearned premium commission payments.

1 **ORIGINAL** of the foregoing filed electronically

2 this ^{26th} ___ day of September, 2024, to:

3 Adam Stone, Administrative Law Judge
4 <https://portal.azoah.com/submission>
5 Office of Administrative Hearings

6 **COPY** of the foregoing delivered on the same date, to:

7 Deian Ousounov, Chief Financial Deputy Director
8 Alena Caravetta, Regulatory Legal Affairs Officer
9 Ana Starcevic, Unit Project Specialist
10 Steven Fromholtz, Licensing Division Manager
11 Linda Lutz, Legal Assistant
12 Aqueelah Currie, Licensing Supervisor
13 Arizona Department of Insurance and Financial Institutions
14 100 North 15th Avenue, Suite 261
15 Phoenix, Arizona 85007

16 **COPY** mailed on the same date by U.S First Class and
17 Certified Mail, Return Receipt Requested, to:

18 Guadalupe Joe Gutierrez
19 3550 North Goldwater Blvd. Suite 1055
20 Scottsdale, AZ 85251-5538

21 *Respondent*

9489 0090 0027 6599 3141 11

22 Guadalupe Joe Gutierrez
23 3550 North Goldwater Blvd.
24 Scottsdale, AZ 85251-5538

25 *Respondent*

9489 0090 0027 6599 3141 28

26 **COPY** sent via electronic mail the same date, to:

27 Guadalupe Joe Gutierrez
28 joe@generationalweathagency.com
29 *Respondent*

30 Zachary Howard, Assistant Attorney General
31 Zachary.Howard@azag.gov
32 AdminLaw@azag.gov
33 *Attorney for the Department*

Mayra Kariem

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 23A-085-INS

GUTIERREZ, GUADALUPE JOE
(National Producer Number 17485004)

**ADMINISTRATIVE LAW JUDGE
DECISION**

Respondent

HEARING: August 19, 2024

APPEARANCES: Arizona Department of Insurance and Financial Institutions was represented by Assistant Attorney General Zachary Howard.

ADMINISTRATIVE LAW JUDGE: Adam D. Stone

EXHIBITS ADMITTED INTO EVIDENCE: Arizona Department of Insurance and Financial Institutions' Exhibits 1-27 were admitted into evidence.

FINDINGS OF FACT

1. At all times relevant to this matter, Guadalupe Joe Gutierrez (Respondent) was licensed by the Arizona Department of Insurance and Financial Institutions (Department) in Arizona as insurance producer, National Producer Number 17485004, with a line of authority in casualty and property insurance. Respondent's license was renewed on December 1, 2022, and was scheduled to expire on November 30, 2026.¹

2. Until February 2024, Respondent's business and mailing addresses of record with the Department since his application was first submitted was: 2145 W. Broadway Road, Unit 50, Mesa Arizona 85202, and his residence address was 20 E. Thomas Rd. Suite 2200, Phoenix Arizona 85012. Respondent's current mailing and business address was 3550 N. Goldwater Blvd. Suite 1055, Scottsdale, Arizona 85251. Respondent's business e-mail address of record with the Department was joe@generationalwealthagency.com.²

3. On April 14, 2022, the Department received a complaint stating that Respondent was under investigation for unpaid chargeback debt totaling over

¹ See Exhibit 1.

² See id.

1 \$20,000.00. The complaint further alleged that Respondent had submitted fraudulent life
2 insurance applications to Mutual of Omaha.³

3 4. Upon investigation, the Department discovered the following facts:

4 a. On or about November 1, 2022, Respondent submitted to Mutual of
5 Omaha individual life insurance applications from John and Susan Bennett.⁴

6 b. On or about December 5, 2022, Mutual of Omaha sent the policy
7 cancellation notices to Mr. and Mrs. Bennett stating in pertinent part, "...no
8 premiums were paid for this policy. Your policy has been cancelled effective
9 11/02/2022..."⁵

10 c. On or about January 19, 2023, Mutual of Omaha sent a commission
11 chargeback request to Respondent in the amount of \$979.09 for the
12 commission paid related to the Bennett's policies.⁶

13 d. During the investigation, the Department confirmed that the Arizona
14 Motor vehicle Department's records reflected the Social Security and
15 Driver's License Numbers provided in the Bennett's applications belonged
16 to different individuals. Too, the Department's internal investigation could
17 not confirm the Bennett's identities using the information provided in their
18 applications.⁷

19 e. Further, the investigation found that Respondent advertised its
20 insurance services through an unlicensed entity's website, namely,
21 Generational Wealth Agency LLC (GWA). The Arizona Corporation
22 Commission's website lists Respondent as a manager, organizer, and
23 statutory agent of GWA.⁸

24 f. It was also discovered that GWA's website contained misleading
25 information including: references to positive reviews on Google Reviews
26 and the Better Business Bureau that did not exist, a testimonial from a
27

28 ³ See Exhibit 3.

29 ⁴ See Exhibits 5 and 6.

30 ⁵ See Exhibit 7 and 8.

⁶ See Exhibit 4.

⁷ See Exhibit 9.

⁸ See Exhibit 11.

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customer who was not real, and a reference to a second agent apart from Respondent who did not exist, amongst other falsehoods.⁹

5. As part of the investigation, the Department, on July 12, 2023 and July 14, 2023, sent a Subpoena Duces Tecum (Subpoena)¹⁰ to Respondent at the following addresses affiliated with Respondent:

a. 20 E. Thomas Rd. Suite 2200, Phoenix Arizona 85012, Respondent's address of record with the Department.

b. 2145 W. Broadway Road, Unit 50, Mesa Arizona 85202, Respondent's address of record with the Department

c. 4242 North 69th Lane, Unit 1333, Phoenix, Arizona 85033, an address obtained through social media.

d. 6991 East Camelback Road, Scottsdale, Arizona 85251.

e. 21459 E. Estrella Rd., Queen Creek, Arizona 85124, which was the address listed on the Bennett's applications, although it was spelled "Estrelle Rd."

6. The Department also sent Respondent an electronic copy of the Subpoena to his e-mail address, and Respondent acknowledged the receipts of the same.¹¹

7. But for the Subpoena sent to the 69th Lane address, all other Subpoenas were returned to the Department as "unable to deliver" or the Department received a notification that Respondent was not affiliated with the address in question.¹²

8. On July 26, 2023, Department investigator Rachel Smith, as well as her supervisor, conducted an Examination Under Oath with Respondent over Zoom, as Respondent had been residing in Guadalajara, Mexico for several months.

9. Next, the Department contacted Yuly Gilgur, from Family First Life Republic LLC (FFLR). Mr. Gilgur informed the Department that Respondent owed approximately \$31,000.00 in chargebacks to five different insurers, while Respondent was affiliated with FFLR.

⁹ See id.
¹⁰ See Exhibit 12.
¹¹ See Exhibit 13.
¹² See Exhibits 14, 15, 16, 18, and 19.

1 10. On or about April 3, 2024, the Department issues a Notice of Hearing and
2 Complaint to Respondent setting a hearing in this matter on May 20, 2024 at the Office
3 of Administrative Hearings, an independent State agency.

4 11. Upon request by the Department, the matter was continued to July 22,
5 2024. Respondent then requested a continuance for additional time to obtain counsel,
6 and the matter was continued to August 19, 2024. Four days prior to the hearing,
7 Respondent again requested a continuance, this time asserting that his mother was sock
8 in Mexico and he needed to be with her. He however provided no documentation of the
9 same, and also did not request to appear remotely, as he did with the Department
10 interview, thus the Motion was denied.

11 12. At hearing on August 19, 2024, despite waiting 15 minutes prior to
12 commencing the same, Respondent did not appear, and therefore, he did not present any
13 evidence to refute or rebut the evidence presented by the Department.

14 13. The Department presented the testimony of Ms. Smith and Mr. Gilgur.

15 14. Ms. Smith testified that when she interviewed Respondent and asked about
16 the Bennett's applications with Mutual of Omaha, Respondent denied that he knowingly
17 submitted fraudulent application, despite having suspicions due to the Bennett's
18 unwillingness to have any phone or in-person contact to verify the information provided.
19 Respondent also admitted that he made little effort to verify the information.

20 15. As to the GWA website, Respondent admitted to the errors and claimed that
21 they were because of a website builder template, and that he failed to remove any of the
22 pre-filed fields which did not apply.

23 16. Ms. Smith also testified that GWA does not hold an insurance license in
24 Arizona and was therefore unable to sell insurance products, as the website advertised.

25 17. Further, Ms. Smith testified that Respondent failed to provide a
26 comprehensive list of the chargeback debts contained in the subpoena, as he could not
27 name the specific carriers or amounts when questioned.

28 18. Ms. Smith also testified that she did extensive research into Respondent's
29 addresses and found that on his renewal application,¹³ the Thomas address listed was
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¹³ See Exhibit 17.

1 inaccurate, and that if he was truly in Mexico for some time, he failed to update his
2 address with the Department.

3 19. Ms. Smith testified however that the \$979.09 chargeback was paid by
4 CreativeOne,¹⁴ but upon information and belief, the remaining chargebacks have not
5 been satisfied.

6 20. Mr. Gilgur testified that he was Respondent's manager at FFLR from
7 approximately August 2021 until mid-2023.

8 21. Mr. Gilgur also testified that a chargeback is when an agent owes back a
9 commission from a policy which was cancelled. If not paid back by that agent, the agent's
10 supervisor would have to pay the same to the issuer.

11 22. Further, Mr. Gilgur testified that he discovered that there were several
12 chargebacks during Respondent's tenure, which have gone unpaid by Respondent.
13 Those were as follows:

- 14 a. Accordia Life and Annuity Company in the amount of \$7,560.00.¹⁵
- 15 b. Global Atlantic in the amount of \$1,680.00.¹⁶ As to this company, Mr. Gilgur
16 testified that he received information that Respondent sent an e-mail to
17 Global Atlantic claiming that Respondent paid Mr. Gilgur.¹⁷ However, Mr.
18 Gilgur testified that the both the e-mail address and the telephone number
19 were not his, and that he never received any funds associated with this
20 chargeback.
- 21 c. Americo in the amount of \$5,304.61.¹⁸
- 22 d. Athene Annuity and Life Company in the amount of \$4,725.88.¹⁹
- 23 e. American-Amicable Life Insurance Company in the amount of \$3,705.56.²⁰

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27 ¹⁴ See Exhibit 10.

¹⁵ See Exhibit 22.

¹⁶ See Exhibit 24. Mr. Gilgur also explained that these companies merged so there was no separate
28 notice sent.

¹⁷ See Exhibit 27.

¹⁸ See Exhibit 23. Mr. Gilgur explained that this was in addition to monies previously owed by
29 Respondent, thus bringing the total owed to Americo \$21,649.03.

¹⁹ See Exhibit 25.

²⁰ See Exhibit 26.

CONCLUSIONS OF LAW

1
2 1. This matter is a disciplinary proceeding wherein the Department must prove
3 by a preponderance of the evidence that Respondent violated the State's insurance laws.
4 See A.A.C. R2-19-119.

5 2. The copies of the Notice of Hearing that the Department sent to Respondent
6 at his address of record and at his email address of record were reasonable and
7 Respondent is deemed to have received notice of the hearing. A.R.S. §§ 41-1092.04 and
8 41-1092.05(D).

9 3. A.R.S § 20-295 provides in pertinent part:

10 A. The director may deny, suspend for not more than twelve months, revoke
11 or refuse to renew an insurance producer's license or may impose a civil
12 penalty in accordance with subsection F of this section or any combination
13 of actions for any one or more of the following causes:

- 14 1. Providing incorrect, misleading, incomplete or materially untrue
15 information in the license application.
- 16 2. Violating any provision of this title or any rule, subpoena or order of the
17 director.

18 ...
19 8. Using fraudulent, coercive or dishonest practices, or demonstrating
20 incompetence, untrustworthiness or financial irresponsibility in the conduct
21 of business in this state or elsewhere.

22 ...
23 F. In addition to or instead of any suspension, revocation or refusal to renew
24 a license pursuant to this section, after a hearing the director may:

- 25 ...
- 26 3. Order the licensee to provide restitution to any party injured by the
27 licensee's action.

28 4. Respondent's conduct, as described above, providing incorrect, misleading,
29 incomplete or materially untrue information in his license application in violation of A.R.S.
30 § 20-295(A)(1).

5. Respondent's conduct, as described above, constituted a violation of
provision under Title 20, or of any rule, subpoena, or order of the director within the
meaning of A.R.S. § 20-295(A)(2).

6. Respondent's conduct, as described above, constituted using fraudulent,
coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or

1 financial irresponsibility in the conduct of business within the meaning of A.R.S. § 20-
2 295(A)(8).

3 7. Grounds exist for the Director of the Department to suspend, revoke, or
4 refuse to renew Respondent's license pursuant to A.R.S. §§ 20-295, 20-287(A)(1), 20-
5 295(A)(2) and (8).

6 8. Grounds also exist for the Director to order Respondent to provide
7 restitution to Yuly Gilgur under A.R.S. §§ 20-295(F)(3).

8 9. Further, Respondent's failure to appear at the hearing further demonstrated
9 that he cannot be regulated at this time.

10 **ORDER**

11 Based upon the above, Respondent's License shall be revoked on the effective
12 date of the Order entered in this matter.

13 It is further recommended that Respondent shall pay restitution to Yuly Gilgur for
14 the following chargebacks:

- 15 1. Accordia Life and Annuity Company in the amount of \$7,560.00.
- 16 2. Global Atlantic in the amount of \$1,680.00.
- 17 3. Americo in the amount of \$5,304.61.
- 18 4. Athene Annuity and Life Company in the amount of \$4,725.88.
- 19 5. American-Amicable Life Insurance Company in the amount of \$3,705.56.

20 ***Pursuant to A.R.S. § 41-1092.08(l), the licensee may accept the***
21 ***Administrative Law Judge Decision by advising the Office of Administrative***
22 ***Hearings in writing not more than ten (10) days after receiving the decision. If the***
23 ***licensee accepts the Administrative Law Judge Decision, the decision shall be***
certified as the final decision by the Office of Administrative Hearings.

24 ***In the event of certification of the Administrative Law Judge Decision by the***
25 ***Director of the Office of Administrative Hearings, the effective date of the Order will***
26 ***be forty (40) days from the date of that certification.***

27 Done this day, September 4, 2024.

28 /s/ Adam D. Stone
29 Administrative Law Judge
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Transmitted by either mail, e-mail, or facsimile to:

Barbara D. Richardson,
Department of Insurance and Financial Institutions - Insurance

Guadalupe Joe Gutierrez
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Zachary Howard
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By: OAH Staff