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By: OAH Staff

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

RUBEN RODRIGUEZ
(National Producer No. 7833010),

and

A & R INSURANCE LLC
(National Producer No. 11849485),

Respondents.

No. 24A-035-INS

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARING: February 4, 2024¹

APPEARANCES: Ruben Ray Rodriguez represented himself. Assistant Attorney General Zachary Howard represented the Arizona Department of Insurance and Financial Institutions.

ADMINISTRATIVE LAW JUDGE: Kay A. Abramsohn

EXHIBITS ADMITTED INTO EVIDENCE: Department Exhibits 1 through 23.

FINDINGS OF FACT

1. Ruben Ray Rodriguez (“Respondent”) has been licensed in the State of Arizona as an Insurance Producer, National Producer License Number 7833010, most recently with lines of authority in property and casualty insurance.²

2. The Arizona Department of Insurance and Financial Institutions (“Department”) first issued Respondent’s license on August 20, 2003; the most recent license was issued on December 24, 2021.³ Respondent’s license was set to expire on January 31, 2025.⁴

3. Respondent is owner of an independent insurance firm, A & R Insurance LLC (“A&R”), founded in October 2008.⁵ A&R’s National Producer License Number is 11849485. A&R’s license was set to expire on October 31, 2024.

¹ The hearing in this matter was noticed for November 5, 2024 and then continued to February 4, 2025.

² See Department Exhibit 1.

³ *Id.*

⁴ *Id.*

⁵ See Department Exhibit 2.

1 4. On July 19, 2023, Benjamin Gulick, an Investigator for Safeway Insurance
2 Company (“Safeway”), contacted the Department with regard to the continued
3 “acceptance of cash payments” practices of Respondent and A&R and the resulting
4 consequences.⁶ Those practices had continued despite Safeway having warned
5 Respondent to stop the practices because the cash payments being taken by Respondent
6 and A&R were not always coming through to Safeway via the Agent Sweep procedure
7 or, later, through the use of E-checks.⁷ As a result of “nonpayment” of the premiums,
8 several policy holders’ policies had been cancelled.⁸

9 5. One policy holder, Anthony Demello, was in a car accident in April 2023 and
10 when he reported a claim, Safeway found that the policy had been cancelled due to
11 nonpayment of premiums in September of 2022.⁹ Mr. Demello was able to document for
12 Safeway the cash payments he had made from December 2021 through March 2023 at
13 A&R through paper receipts.¹⁰

14 6. In April 2023, Safeway began its efforts to contact Respondent and obtain
15 A&R records regarding Mr. Demello’s policy and the premiums.¹¹ Safeway was unable
16 to obtain Respondent’s cooperation describing Respondent’s actions as “evasive.”¹²

17 7. In August 2023, Safeway notified A&R that Safeway had settled Mr.
18 Demello’s claim and that A&R was being looked to for both reimbursement for the claim
19 amount and the unpaid premiums in total amount of \$4,672.57.¹³

20 8. On December 13, 2023, the Department emailed and issued a Subpoena
21 to Respondent for documents to be produced by January 12, 2024 to Investigator Rachel
22 Smith regarding the Demello policy and premiums and for an interview on January 17,
23 2024.¹⁴

24
25 ⁶ See Department Exhibit 3.

26 ⁷ See Department Exhibit 14 and 15.

27 ⁸ The policies were able to be reinstated with accurate payments then coming in from Respondent.

28 ⁹ The policy had been cancelled previous two times and then reinstated; however the September 2022
29 cancellation was not reinstated. Mr. Demello had moved and his address was not updated with Safeway;
30 he never received the September 2022 cancellation notice. See Department Exhibit 3; see also
Department Exhibits 4, 7 and 8.

¹⁰ See Department Exhibits 5 and 6.

¹¹ See Department Exhibits 9, 10 and 11.

¹² See Department Exhibit 3.

¹³ See Department Exhibit 12.

¹⁴ See Department Exhibit 16.

1 9. After multiple attempts to communicate with Respondent regarding the
2 matter, Safeway terminated its agency with Respondent and A&R effective January 3,
3 2024.¹⁵

4 10. Respondent responded by email on December 15, 2023, accepting
5 responsibility for the actions of his office and indicating that things had been cleaned up.¹⁶
6 At that time, however, Respondent gave no indications regarding the subpoena.

7 11. Investigator Smith replied by email on December 15, 2023, thanking
8 Respondent for his willingness to accept responsibility and explaining that the requested
9 narrative response and compliance with the subpoenaed material was still necessary for
10 the investigation to be completed.¹⁷ Respondent and Investigator Smith also spoke that
11 day and covered some overall factual information regarding the matter.¹⁸

12 12. On January 24, 2024, Respondent participated in an interview with the
13 Department's Investigator Smith. Thereafter, Investigator Smith emphasized by email the
14 necessary information and documentation that the Department would need by February
15 1, 2024 to complete the investigation.¹⁹

16 13. On February 2, 2024, Respondent executed a promissory note ("Note") for
17 payments to Safeway for restitution of the claim payout and unpaid premiums.²⁰ The
18 Note called for Respondent to make \$1,000.00 payments beginning on March 1, 2024.²¹

19 14. Investigator Smith contacted Safeway on March 29, 2024, and she was
20 subsequently informed that Respondent had not made any payment. Investigator Smith
21 also attempted to reach Respondent with regard to Note payments but he did not respond.

22 15. On September 16, 2024, the Department issued its Notice of Hearing and
23 Complaint setting an administrative hearing regarding whether grounds existed to revoke
24 Respondent's licenses.

25 16. At hearing, Investigator Smith testified in support of her investigation and
26 the information collected. Investigator Smith recounted her January 24, 2024 interview

27 _____
28 ¹⁵ See Department Exhibit 13.

29 ¹⁶ See Department Exhibit 17.

30 ¹⁷ *Id.*; see also Exhibit 18.

¹⁸ See Department Exhibit 18.

¹⁹ See Department Exhibit 19.

²⁰ See Department Exhibit 20.

²¹ See Department Exhibit 21.

1 discussion with Respondent during which he acknowledged that one of his employees
2 had taken cash received at the office and had run off with it. Respondent also indicated
3 that he had been pursuing another venture, had been relying on his office staff, and had
4 not been supervising the staff. Respondent did not recall being aware of Mr. Demello's
5 address change. Respondent indicated that he was providing more supervision and the
6 business was acquiring a new system for accounting and billing.

7 17. At hearing, Respondent was forthright and candid in acknowledging he had
8 been neglectful of the business in trusting his staff and not supervising the business while
9 he had been pursuing another business venture (which had resulted in losses).
10 Respondent testified that, based on the location of the A&R office and his customers who
11 mostly dealt in cash, by not now accepting cash from customers, the firm's business had
12 dropped in writing/producing by more than half. Respondent expressed a great deal of
13 remorse and shame for his actions in not communicating with Safeway and the
14 Department, in not paying on the Note, and overall as to the situation and not taking care
15 of it.²² Respondent requested leniency in regards to discipline and hoped for the
16 possibility of suspension rather than revocation.

17 **CONCLUSIONS OF LAW**

18 1. This matter is a disciplinary proceeding wherein the Department must prove
19 by a preponderance of the evidence that Respondent violated the State's Insurance
20 Laws.²³

21 2. A.R.S. § 20-295 provides, in pertinent part, as follows:

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

26 2. Violating any provision of this title or any rule, subpoena or order
of the director. . . .

27 4. Improperly withholding, misappropriating or converting any
28 monies or properties received in the course of doing insurance
29 business. . . .

30 ²² Respondent indicated that he did not have the money to make payments on the Note.

²³ See A.A.C. R2-19-119.

1 8. Using fraudulent, coercive or dishonest practices, or
2 demonstrating incompetence, untrustworthiness or financial
3 irresponsibility in the conduct of business in this state or elsewhere.

4 3. Respondent's conduct, as described in the Findings of Fact herein above,
5 constitutes a violation of provisions of this title, within the meaning of A.R.S. § 20-
6 295(A)(4), with the improper withholding from the insurers, and converting by an
7 employee, of monies intended to be premium payments that were received in the course
8 of doing insurance business. The cause of the situation was a combination of
9 circumstances; conversion by an employee was, as to Respondent, an unintentional act
10 by Respondent. However, the action of not assuring the payment of the premium monies
11 to respective insurers remains an improper withholding of the monies.

12 4. Respondent's conduct, as described in the Findings of Fact herein above,
13 constitutes a violation of provisions of this title, within the meaning of A.R.S. § 20-
14 295(A)(8), with the demonstration of financial irresponsibility in the conduct of insurance
15 business.

16 5. Based on the foregoing, the hearing record demonstrates multiple grounds
17 for the Director of the Department to suspend or revoke Respondent's and A&R's
18 licenses pursuant to A.R.S. § 20-295(A) and (B). Given the timing he was away from
19 the day-to-day business operations and having believed that the A&R business office
20 staff was appropriately handling the premium process, and in efforts to maintain the
21 ability to provide services to his constituent customers, Respondent was unexpectedly
22 confronted with conversion by one employee of cash payments A&R received that were
23 intended to be premium payments for those customer's policies. The evidence
24 demonstrated that, after Safeway raised concern about A&R's acceptance of cash
25 payments for premiums, which payments were not showing up in sweeps, Respondent
26 tried other methods that would continue to serve his constituents and still allow
27 payments to be made to Safeway.²⁴ However, the evidence showed that those efforts
28 did not overcome the conversions by his employee, which resulted in premium
29 payments not being made to Safeway and the cancellation of customer policies.
30 Unfortunately, when Mr. Demello had an accident and made the claim to Safeway, the

²⁴ The hearing record does not demonstrate that, at that point, Respondent had determined it was an employee issue rather than a financial transactional issue.

1 circumstances came to a head with Safeway taking action to terminate its relationship
2 with Respondent and requiring restitution of the claim payout and the unpaid premiums.

3 **RECOMMENDED ORDER**

4 IT IS ORDERED Respondent's Arizona residential insurance producer license,
5 Number 7833010 shall be suspended for six months on the effective date of the final
6 Order entered in this matter pursuant to A.R.S. § 20-295(A)(4) and (A)(8).

7 IT IS ORDERED A&R's Arizona residential insurance producer license Number
8 1184985 shall be suspended for two months on the effective date of the final Order
9 entered in this matter pursuant to A.R.S. § 20-295(A)(8) and (B)(2).

10 IT IS ORDERED Respondent shall pay a civil penalty of \$250.00 regarding the
11 violation of A.R.S. § 20-295(A)(4) as concluded herein pursuant to A.R.S. § 20-295(F)(1).

12 IT IS ORDERED Respondent shall pay a civil penalty of \$1,000.00 regarding the
13 violation of A.R.S. § 20-295(A)(8) as concluded herein pursuant to A.R.S. § 20-295(F)(2).

14 IT IS ORDERED Respondent shall make full restitution of \$ \$4,672.57 to Safeway
15 no later than two months after the effective date of the final Order in this matter. In the
16 event that full restitution is not made by no later than two months after the effective date
17 of the final Order entered in this matter, the Respondent's license Number 7833010 and
18 A&R's license Number 1184985 shall both be revoked.

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

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

28 Done this day, March 10, 2025.

29 /s/ Kay Abramsohn
30 Administrative Law Judge

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