

JAN 3 1997

DEPT. OF INSURANCE  
BY KAM

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

5	In the Matter of:	)	Docket No. 96A-198
		)	
6	SETTLERS INSURANCE, INC.;	)	<b>ORDER</b>
	RAINBOW PREFERRED INSURANCE	)	
7	I.C., GENE R. MONTELEONE;	)	
	IRENE ROBBINS; WILLIAM ROLLAND	)	
8	ARMSTRONG	)	
		)	
9	Respondents.	)	
		)	
10		)	

11  
12 On November 12, 1996, a Notice of Hearing was issued in this matter, a copy of which is  
13 attached and incorporated by this reference.

14 The Notice required Irene Robbins to provide written answers to the allegations set forth  
15 in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to  
16 file an answer. On January 2, 1997, counsel for the Department filed a Request for Default and a  
17 proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not  
18 responded to the Department's request. Pursuant to A.A.C. R20-6-106(C), a party that fails to file an  
19 answer within the time provided shall be deemed to be in default and one or more of the allegations in the  
20 notice of hearing may be deemed to be admitted.

21 FINDING OF FACT

22 1. Notice was proper.  
23



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2 The final decision of the Director may be appealed to the Superior Court of Maricopa  
3 County for judicial review pursuant to A.R.S. § 20-166.

4 DATED this 3rd day of January, 1997.

5  
6   
7 John King  
8 Director of Insurance

9  
10 A copy of the foregoing mailed  
11 this 3rd day of January, 1997

12 Office of Administrative Hearings  
13 1700 West Washington, Suite 602  
14 Phoenix, AZ 85007

15 Mark Sendrow  
16 Assistant Attorney General  
17 1275 West Washington  
18 Phoenix, AZ 85012  
19 Attorney for the Department

20 John Gagne, Assistant Director  
21 Catherine O'Neil, Assistant Director  
22 Maureen Catalioto, Supervisor  
23 Department of Insurance  
2910 N. 44th Street, Suite 210  
Phoenix, AZ 85018

Irene Robbins  
4231 E. Saguaro Drive  
Phoenix, AZ 85028  
Respondent

1 S. David Childers  
John P. Flynn  
2 Low & Childers, P.C.  
2999 N. 44th Street, Suite 250  
3 Phoenix, AZ 85018  
Counsel for Respondents Settlers,  
4 Rainbow, and Monteleone

5 William Rolland Armstrong  
2840 E. Wagoner Road  
6 Phoenix, AZ 85032  
Respondent

7 Settlers Insurance, Inc.  
8 10221 N. 32nd Street, #K  
Phoenix, AZ 85028

9 Rainbow Preferred Insurance, Inc.  
10 3420 E. Shea Boulevard, #115  
Phoenix, AZ 85028  
11 Respondent

12 Gene R. Monteleone  
Rainbow Preferred Insurance, Inc.  
13 3420 E. Shea Boulevard, #115  
Phoenix, AZ 85028  
14 Respondent

15 Gene R. Monteleone  
13724 N. 96th Street  
16 Scottsdale, AZ 85260  
Respondent

17 Irene Robbins  
18 Settlers Insurance, Inc.  
10221 N. 32nd Street, #K  
19 Phoenix, AZ 85028  
Respondent

20 William Rolland Armstrong  
21 Settlers Insurance, Inc.  
10221 N. 32nd Street, #K  
22 Phoenix, AZ 85028  
Respondent

23

- 1 Thunderbird Insurance Group, Inc.  
3420 E. Shea Boulevard, #115
- 2 Phoenix, AZ 85028
- 3 American Summit Insurance Company  
14805 N. 73rd Street
- 4 Scottsdale, AZ 85260-3107
- 5 Colonial Insurance Company of California  
P.O. Box 4347
- 6 Anaheim, CA 928-3-4347
- 7 Safeco Insurance Company of America  
Safeco Plaza
- 8 Seattle, WA 98185
- 9 Safeway Insurance Company  
500 S. Racine Avenue
- 10 Chicago, IL 60685
- 11 Dairyland Insurance Company  
1800 N. Point Drive
- 12 Stevens Point, WI 54481
- 13 Hartford Casualty Insurance Company  
Hartford Plaza
- 14 Hartford, CT 06115
- 15 Midland Risk Insurance Company  
825 Crossover Lane, #112
- 16 Memphis, TN 38117-4936
- 17 Progressive Casualty Insurance Company  
E61, 6300 Wilson Mills Road
- 18 Mayfield Village, OH 44143
- 19 Statewide Insurance Company  
P.O. Box 799
- 20 Waukegan, IL 60079
- 21 Victoria Fire & Casualty Company  
5915 Landerbrook Drive, #210
- 22 Cleveland, OH 44124-4058

23

1 Viking Insurance Company of Wisconsin  
P.O. Box 5365  
2 Madison, WI 53705-0365

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*Kathy Lender*

NOV 12 1996

STATE OF ARIZONA

DEPT. OF INSURANCE  
BY     

DEPARTMENT OF INSURANCE

1 In the Matter of: )  
 2 )  
 3 )  
 4 SETTLERS INSURANCE, INC.; )  
 5 RAINBOW PREFERRED INSURANCE, INC. )  
 6 GENE R. MONTELEONE; IRENE ROBBINS; )  
 7 WILLIAM ROLLAND ARMSTRONG )  
 Respondents. )

No. 96A-198

NOTICE OF HEARING

8 PLEASE TAKE NOTICE that pursuant to the provisions of Arizona  
 9 Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165  
 10 and 41-1061 through and including 41-1066, the above-captioned  
 11 matter will be heard on the 13th day of December 1996,  
 12 at 8:30 a.m., at Office of Administrative Hearings, 1700 West  
 13 Washington, Suite 602, Phoenix, Arizona (the "Hearing").

14 Motions to continue this matter shall be made in writing to  
 15 the Administrative Law Judge not less than five (5) business days  
 16 prior to the date set for the hearing. A copy of any motion to  
 17 continue shall be mailed or hand-delivered to the opposing party on  
 18 the same date of filing with the Office of Administrative Hearings.

19 A.R.S. § 20-164 entitles any person affected by this Hearing  
 20 to appear in person and by counsel, to be present during the giving  
 21 of all evidence, to have a reasonable opportunity to inspect all  
 22 documentary evidence, to examine witnesses, to present evidence in  
 23 support of his/her interests, and to have subpoenas issued by the  
 24 Administrative Law Judge to compel attendance of witnesses and  
 25 production of evidence on the person's behalf.

26 Questions concerning issues raised in this Notice of Hearing

1 should be directed to Assistant Attorney General Mark Sendrow (602)  
2 542-7723, 1275 West Washington, Phoenix, Arizona 85007.

3 NOTICE OF APPLICABLE RULES

4 On January 23, 1992, the Arizona Department of Insurance  
5 adopted A.A.C. R20-6-101 through R20-6-115, setting forth the rules  
6 of practice and procedure applicable in contested cases before the  
7 Director of Insurance. The hearing will be conducted pursuant to  
8 these rules.

9 PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN  
10 ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND  
11 SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT  
12 ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE  
13 RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR  
14 DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT  
15 DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN  
16 ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED,  
17 RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE  
18 ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE,  
19 INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR RENEWAL  
20 OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER  
21 RESTITUTION TO ANY PARTY INJURED.

22 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE  
23 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR  
24 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR  
25 ACCOMMODATIONS MUST BE MADE WITH 72 HOURS PRIOR NOTICE. IF YOU  
26 REQUIRE ACCOMMODATIONS, PLEASE CONTACT RICHARD BRINTON AT THE



1 ARIZONA DEPARTMENT OF INSURANCE AT (602) 912-8460.

2 This Hearing is being called by the Director because he is  
3 informed and has cause to believe and therefore alleges the  
4 following:

5 INTRODUCTION

6 1. This matter involves a failure to notify the Insurance  
7 Director in a timely manner about changes of corporate officers;  
8 the payment of commissions to non-licensed persons; unlicensed  
9 activity; the failure to have licensed agents on the premises of  
10 insurance offices; the misrepresentation of coverage; and the  
11 charging for motor club coverage without the approval of  
12 policyholders.

13 RESPONDENTS

14 2. Settlers Insurance, Inc. ("Settlers") is presently and at  
15 all times material to this matter was an Arizona Corporation  
16 licensed to transact insurance in the State of Arizona. Settlers  
17 holds agent/broker property and casualty license No. 12085.  
18 Settlers' principal place of business is 102210 North 32nd Street,  
19 #K, Phoenix, Arizona 85028. At all times material to this matter  
20 Settlers had branch offices in Phoenix, Apache Junction and Yuma.

21 3. Rainbow Preferred Insurance, Inc. ("Rainbow") is  
22 presently and at all times material to this matter was an Arizona  
23 Corporation licensed to transact insurance in the State of Arizona.  
24 Rainbow holds property & casualty and life & disability license No.  
25 38678. Rainbow's principal place of business is 3420 East Shea  
26 Boulevard, #115, Phoenix, Arizona 85028.

1           4.     Gene R. Monteleone ("Monteleone") is presently and at all  
2 times material to this matter was an Arizona licensed property &  
3 casualty and life & disability insurance agent or broker (license  
4 no. 798578). Monteleone is the president of Settlers and Rainbow.

5           5.     Irene Robbins ("Robbins") is presently and at all times  
6 material to this matter was an Arizona licensed property & casualty  
7 and life & disability insurance agent (license no. 764248).  
8 Robbins is an employee of Settlers.

9           6.     William Rolland Armstrong ("Armstrong") is presently and  
10 at all times material to this matter was an Arizona licensed  
11 property & casualty agent (license no. 14469). Armstrong is an  
12 employee of Settlers.

13           FAILURE TO NOTIFY INSURANCE DIRECTOR OF CORPORATE CHANGES

14           7.     Thunderbird Insurance Group, Inc., now Thunderbird  
15 Companies, Inc., ("Thunderbird") is an Arizona Corporation.  
16 Thunderbird is not licensed to transact the business of insurance  
17 in the State of Arizona. Thunderbird's principal place of business  
18 is 3420 East Shea Boulevard, #115, Phoenix, Arizona 85028.

19           8.     On or about December 13, 1995, Thunderbird purchased  
20 Settlers which resulted in a change of officers for Settlers.

21           9.     On or about December 15, 1995, Thunderbird filed its  
22 Articles of Incorporation with the Arizona Corporation Commission.

23           10.    On or about December 27, 1995, Rainbow filed  
24 incorporation papers with the Arizona Corporation Commission.

25  
26



1 engaged in a course of conduct to misrepresent or conceal from  
2 policyholders that they are being charged for motor club coverage.

3 16. Settlers, Armstrong, Robbins and other employees or  
4 agents of Settlers, represent to potential policyholders that motor  
5 club coverage is included with personal passenger automobile  
6 liability insurance policies, when in fact the price quoted  
7 includes a hidden charge of twenty to twenty-five dollars for the  
8 motor club coverage.

9 17. Upon information and belief, corporate officers or  
10 employees of Settlers are aware of the pattern of misrepresentation  
11 and concealment concerning motor club coverage, and they have  
12 encouraged and authorized agents and other employees to  
13 misrepresent or conceal the charges for the motor club coverage.

14 SERVICE FEE FILING

15 18. From December, 1995 until at least August, 1996,  
16 Respondents Settlers and Monteleone have charged fees for motor  
17 club/roadside services without filing with and obtaining permission  
18 from the Insurance Department.

19 VIOLATIONS

20 19. Respondents Settlers and Monteleone did not have a  
21 licensed agent in each office they operated, in violation of A.R.S.  
22 § 20-295(A).

23 20. Respondents Settlers and Monteleone failed to promptly  
24 notify the Director of changes of corporate officers and directors  
25 pursuant to A.R.S. § 20-295(F).

26 21. Respondent Settlers and Monteleone failed to

1 conspicuously display insurance licenses of licensees and  
2 solicitors at the Apache Junction office, pursuant to A.R.S. § 20-  
3 302(B).

4 22. Respondents Settlers and Monteleone employed unlicensed  
5 persons and shared commissions with them, in violation of A.R.S. §  
6 20-311(B).

7 23. Respondents Settlers and Monteleone have charged fees for  
8 motor club/roadside services without filing with and obtaining  
9 permission from the Insurance Department, in violation of A.R.S. §  
10 20-465 and the Insurance Directors Order of July 5, 1994, styled In  
11 the Matter of Services Customarily Provided in the Transaction of  
12 Certain Motor Vehicle Insurance (Docket No. 8323).

13 24. The conduct of Respondents Settlers, Rainbow, Monteleone,  
14 Armstrong and Robbins constitutes willful violation of or wilful  
15 noncompliance with any provision of this title or any lawful rule  
16 or regulation, in violation of A.R.S. § 20-316(A)(2).

17 25. The conduct of Respondents Settlers, Monteleone,  
18 Armstrong and Robbins constitutes the conduct of affairs under the  
19 license showing licensees to be incompetent or a source of injury  
20 or loss to the public, in violation of A.R.S. § 20-316(A)(7).

21 26. Respondents Settlers, Monteleone, Armstrong and Robbins,  
22 by directly or indirectly misrepresenting coverages, committed  
23 unfair or deceptive acts or practices in the business of insurance,  
24 in violation of A.R.S. § 20-442.

25 27. Respondents Settlers, Monteleone, Armstrong and Robbins  
26 by placing motor club coverage without disclosing its cost to

1 policyholders misrepresented the terms of policies, in violation of  
2 A.R.S. § 20-443(1).

3 28. Respondent Rainbow's license may be suspended, revoked or  
4 refused for any of the causes that relate to the conduct of  
5 Respondent Monteleone, pursuant to A.R.S. § 20-316(B).

6 Grounds exist for the Director to suspend, revoke or refuse to  
7 renew Respondents' insurance licenses, impose a civil penalty upon  
8 Respondents, and/or order restitution, pursuant to A.R.S. § 20-316.

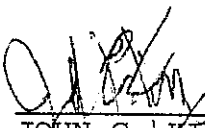
9 WHEREFORE, if after hearing, the Director finds the grounds  
10 alleged above, the Director may suspend, revoke or refuse to renew  
11 Respondents' insurance license or order restitution, pursuant to  
12 A.R.S. § 20-316.

13 Pursuant to A.R.S. § 20-150, the Director of Insurance  
14 delegates the authority vested in the Director of Insurance of the  
15 State of Arizona, whether implied or expressed, to the Director of  
16 the Office of Administrative Hearings or his designee to preside  
17 over the hearing of this matter as the Administrative Law Judge, to  
18 make written recommendations to the Director of Insurance  
19 consisting of proposed findings of fact, proposed conclusions of  
20 law, and a proposed order. This delegation does not include  
21 delegation of the authority of the Director of Insurance to make  
22 the order on hearing or other final decision in this matter.

23 Pursuant to A.R.S. § 41-1092.01, your hearing will be  
24 conducted through the Office of Administrative Hearings, an  
25  
26

1 independent agency. Please find enclosed a copy of the procedures  
2 to be followed.

3 DATED this 7<sup>th</sup> day of November, 1996.

4  
5   
6 JOHN C. KING, Director  
7 Department of Insurance

8 COPY of the foregoing mailed  
9 this 12th day of November 1996 to:

10 Office of Administrative Hearings  
11 1700 West Washington, Suite 602  
12 Phoenix, AZ 85007

13 Mark Sendrow  
14 Assistant Attorney General  
15 1275 West Washington Street  
16 Phoenix, Arizona 85007  
17 Attorney for the Department

18 Charles R. Cohen, Deputy Director  
19 John Gagne, Assistant Director  
20 Arnold Sniegowski, Investigator  
21 Maureen Catalioto, Supervisor  
22 Department of Insurance  
23 2910 North 44th Street, Suite 210  
24 Phoenix, Arizona 85018

25 Settlers Insurance, Inc.  
26 10221 North 32nd Street, #K  
Phoenix, Arizona 85028

Rainbow Preferred Insurance, Inc.  
3420 East Shea Boulevard, #115  
Phoenix, Arizona 85028  
Respondent

Gene R. Monteleone  
Rainbow Preferred Insurance, Inc.  
3420 East Shea Boulevard, #115  
Phoenix, Arizona 85028  
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1 Gene R. Monteleon  
13724 N 96th Street  
2 Scottsdale, Arizona 85260  
Respondent

3 Irene Robbins  
4 Settlers Insurance, Inc.  
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5 Phoenix, Arizona 85028  
Respondent

6 Irene Robbins  
7 4231 E Saguaro Drive  
Phoenix, Arizona 85028  
8 Respondent

9 William Rolland Armstrong  
Settlers Insurance, Inc.  
10 10221 North 32nd Street, #K  
Phoenix, Arizona 85028  
11 Respondent

12 William Rolland Armstrong  
2840 E Wagoner Road  
13 Phoenix, Arizona 85032  
Respondent

14 Thunderbird Insurance Group, Inc.  
15 3420 East Shea Boulevard, #115  
Phoenix, Arizona 85028

16  
17 A courtesy copy of this Notice of Hearing has been  
mailed/delivered to the persons listed below. If you are listed  
18 below, you will receive no further notices or documents concerning  
this matter other than the director's final order. Information  
19 about the status of this matter, including whether the hearing date  
has been changed, may be obtained by contacting the Department of  
20 Insurance at (602) 912-8454 or the Assistant Attorney General  
identified above in writing at 1275 West Washington Street,  
Phoenix, Arizona 85007.

21  
22  
23 American Summit Insurance Co.  
14805 North 73rd Street  
Scottsdale, AZ 85260-3107

Safeco Insurance Co. of America  
Safeco Plaza  
Seattle, WA 98185

24 Colonial Ins. Co. of California  
25 P.O. Box 4347  
Anaheim, CA 92803-4347

Safeway Insurance Co.  
500 South Racine Avenue  
Chicago, IL 60685

26



1 Dairyland Insurance Co.  
1800 North Point Drive  
2 Stevens Point, WI 54481

Statewide Insurance Co.  
P.O. Box 799  
Waukegan, IL 60079

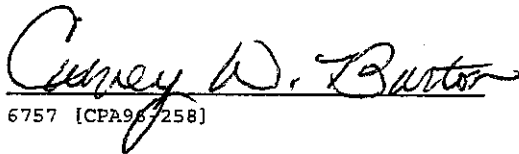
3 Hartford Casualty Insurance Co.  
Hartford Plaza  
4 Hartford, CT 06115

Victoria Fire & Casualty Co.  
5915 Landerbrook Drive, #210  
Cleveland, OH 44124-4058

5 Midland Risk Insurance Co.  
825 Crossover Lane, #112  
6 Memphis, TN 38117-4936

Viking Insurance Co. of  
Wisconsin  
P.O. Box 5365  
Madison, WI 53705-0365

7 Progressive Casualty Insurance Co.  
8 E61, 6300 Wilson Mills Road  
Mayfield Village, OH 44143  
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