

*Maureen*  
**FILED**  
 SEP 4 1986  
 DEPARTMENT OF INSURANCE  
 By cll

STATE OF ARIZONA  
 DEPARTMENT OF INSURANCE

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In the Matter of	)	Docket No. <b>6180</b>
	)	
MICHAEL JOHN BERNAY, License No. 0272132	)	<b>CONSENT ORDER</b>
	)	
Respondent.	)	
_____	)	

The State of Arizona Department of Insurance has conducted an investigation into the activities of MICHAEL JOHN BERNAY as a licensed insurance agent. The investigation was with respect to complaints received on or about MICHAEL JOHN BERNAY, as a licensed insurance agent. The investigation was with respect to complaints received on or about May 21, 1986 from Olliver/Pilcher Insurance, Inc.

To resolve the complaints pending before the Arizona Department of Insurance with respect to the investigation concerning the aforementioned complainants, Respondent, MICHAEL JOHN BERNAY, desires to enter into a consent order.

FINDINGS OF FACT

1. Respondent is a resident of the State of Arizona and is licensed by the Arizona Department of Insurance as a resident insurance agent.

2. On or about April 16, 1985 the Respondent issued an unauthorized endorsement to a liability policy underwritten by Fremont Indemnity Company, Inc. for Simon, Reeves & Roberts, Attorneys at Law.

3. The Respondent issued the aforementioned endorsement to reduce the total premium from \$6,441 to \$3,817.60 to coincide with a prior misquote.

1 4. The premium shortage generated by this act resulted  
2 in a loss to Olliver/Pilcher Insurance, Inc., in the amount of  
3 \$2,623.40.

4 5. On or about April 22, 1985 the Respondent issued an  
5 unauthorized endorsement to an inland transit policy underwritten  
6 by Transamerica Insurance Company for Home Appliance T.V. Center,  
7 Inc.

8 6. The Respondent issued the aforementioned  
9 endorsement to give the appearance of broadened coverage and to  
10 extend coverage an additional two years.

11 7. The unauthorized endorsement on the inland transit  
12 policy resulted in the loss of \$24,141 to the Olliver/Pilcher  
13 Insurance, Inc.

14 CONCLUSIONS OF LAW

15 1. Respondent, MICHAEL JOHN BERNAY, is in violation of  
16 A.R.S. § 20-316.A.7. (conduct of affairs under the license  
17 showing the licensee to be incompetent or a source of injury and  
18 loss to, or repeated complaint by, the public or any insurer).

19 2. Respondent, MICHAEL JOHN BERNAY, is in violation of  
20 A.R.S. § 20-443.1 (Misrepresenting the terms of any policy issued  
21 or the benefits and advantages promised or the dividends or share  
22 of the surplus to be received.)

23 3. Grounds exist for the Director to suspend, revoke,  
24 or refuse to renew Respondent's insurance license or to order  
25 Respondent to pay a monetary forfeiture or both, pursuant to  
26 A.R.S. § 20-316.C.

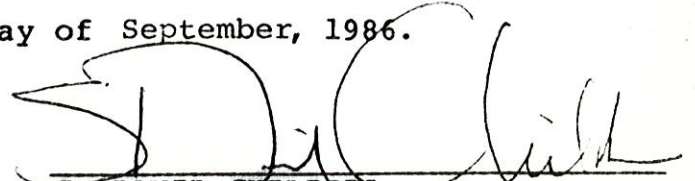
27 4. Grounds exist for the Director to order the  
28 Respondent to cease and desist from violating A.R.S. §§ 20-

1 316.A.7. and 20-443.1, for revocation of his insurance license or  
2 both.

3 O R D E R

4 IT IS HEREBY ORDERED, Respondent's insurance license is  
5 revoked effective September 8, 1986.

6 DATED this 4th day of September, 1986.

7   
8 S. DAVID CHILDERS,  
9 Director of Insurance

10 COPIES of the foregoing mailed this  
11 4th day of September, 1986 to:

12 Susan Gallinger  
13 Assistant Attorney General  
14 1275 West Washington  
Phoenix, Arizona 85007

Michael John Bernay  
4123 East Patricia Jane  
Phoenix, Arizona 85018

15 Robert Zielinski Assistant Director  
16 Maureen Catalioto, Supervisor of Licensing  
17 Susan J. King Investigator  
Department of Insurance  
801 East Jefferson  
Phoenix, Arizona 85034

18 FRED S. JAMES OF ARIZONA  
19 1414 West Broadway  
Tempe, Arizona 85282

20 OLLIVER/PILCHER INSURANCE, INC.  
21 6150 North 16th Street  
Phoenix, Arizona 85016

22 TRANSAMERICA INSURANCE COMPANY  
23 1150 South Olive Street  
Los Angeles, California 90015

24 FREMONT INDEMNITY COMPANY  
25 1709 West 8th Street  
Los Angeles, California 90017

26 HOME APPLIANCE T.V. CENTER  
27 4299 North 43rd Avenue  
Phoenix, Arizona 85031

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Verna R. Pottorff

CONSENT TO ORDER

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3 1. Respondent, MICHAEL JOHN BERNAY, has reviewed the  
4 foregoing Findings of Fact, Conclusions of Law and Order.


5 2. Respondent, MICHAEL JOHN BERNAY, is aware of his  
6 right to a hearing at which hearing Respondent may be represented  
7 by counsel, present evidence and cross-examine witnesses.  
8 Respondent has irrevocably waived his right to such public  
9 hearing and to any court appeals relating thereto.

10 3. Respondent, MICHAEL JOHN BERNAY, admits the  
11 jurisdiction of the State of Arizona Department of Insurance,  
12 consents to the entry of this Order, and admits the foregoing  
13 Findings of Fact and Conclusions of Law.

14 4. Respondent, MICHAEL JOHN BERNAY, states that no  
15 promise of any kind or nature whatsoever was made to him to  
16 induce him to enter into this Order and that he has entered into  
17 this Order voluntarily.

18 5. Respondent, MICHAEL JOHN BERNAY, acknowledges that  
19 the acceptance of this Order by the Arizona Department of  
20 Insurance is solely for the purpose of settling this litigation  
21 against him and does not preclude any other agency or officer of  
22 this state or subdivision thereof from instituting other civil or  
23 criminal proceedings as may be appropriate now or in the future.

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25  
26 DATE: 9-2-86

  
\_\_\_\_\_  
MICHAEL JOHN BERNAY  
License No. 0272132

*Carla W. Pyman*  
*Notary Public*