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DEPARTMENT OF INSURANCE
By *clc*

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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|---------------------------|---|----------|
| In the Matter of: |) | |
| |) | No. 7716 |
| JOSEPH HOWARD BAYNE, JR., |) | |
| |) | CONSENT |
| Respondent. |) | ORDER |
| _____ |) | |

A Second Amended Notice of Hearing was issued by the Department on September 17, 1992 wherein the Department alleged Respondent violated the provisions of Title 20, Arizona Revised Statutes. Respondent has received the Second Amended Notice and has been advised of his right to a hearing and hereby waives that right and agrees to the following consent order.

Therefore, the Director finds that the following Findings of Fact and Conclusions of Law set forth herein are admitted and enters the following Order.

FINDINGS OF FACT

1. Joseph Howard Bayne, Jr. ("Respondent") is presently, and was at all material times licensed as a nonresident life and disability insurance agent in the state of Arizona (License No. 0798895). Respondent's license will expire on December 31, 1993.

2. On or about July 1, 1990, Respondent submitted an application and a premium payment for an insurance policy for Earl Eppstein ("Eppstein") to American Travellers Insurance Co.

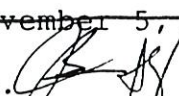
1 ("American Travellers").

2 3. On or about July 13, 1990, American Travellers
3 denied Eppstein's application for an insurance policy and issued
4 Eppstein policy premium refund Check Number R 32262 in the amount
5 of \$5,710.00 on or about July 23, 1990.

6 4. On or about July 23, 1990, American Travellers
7 notified Respondent that a policy premium refund was issued to
8 Eppstein and that Respondent should remit commission on the
9 policy in the amount of \$3,436.00 to American Travellers.

10 5. On or about August 2, 1990, Respondent submitted a
11 letter to American Travellers together with American Travellers
12 Check Number R 32262 requesting that American Travellers
13 reconsider Eppstein's application.

14 6. On or about August 2, 1990, Eppstein died.

15 ~~7. On or about November 5, 1990, American Travellers~~
16 ~~learned of Eppstein's demise.~~ 

17 8. On or about November 16, 1990, American Travellers
18 issued Check Number R 47482 in the amount of \$5,710.00 to the
19 estate of Eppstein. Check Number R 47482 was issued to replace
20 Check Number R32262 which had been issued as a policy premium
21 refund to Eppstein and which had been returned by Respondent.

22 9. On or about November 28, 1990, American Travellers
23 notified Respondent that a premium refund was issued to Eppstein
24 and that Respondent should remit commission in the amount of
25 \$3,436.00 to American Travellers.

26 10. Respondent had a general agents contract

1 ("contract") with American Travellers, attached hereto as exhibit
2 A.

3 11. Respondent's contract provided for the return of
4 any monies accepted with an application American Travellers
5 declined to issue a policy on, (contract p. 3, provision 11).

6 CONCLUSIONS OF LAW

7 1. The Department of Insurance has jurisdiction over
8 this matter.

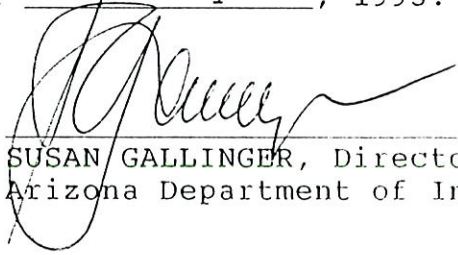
9 2. Respondent's conduct described above constitutes a
10 conduct of affairs under his license showing him to be
11 incompetent or a source of injury and loss to the public or any
12 insurer, in violation of A.R.S. § 20-316(A)(7).

13 3. Grounds exist for the Director to suspend, revoke
14 or refuse to renew Respondent's insurance licenses and impose a
15 civil penalty upon Respondent, pursuant to A.R.S. §§ 20-290(B),
16 20-316(A) and 20-316(C).

17 THEREFORE, IT IS ORDERED:

18 1. Respondent shall make restitution in the amount of
19 \$3,436.00 to American Travellers within 120 days of the date of
20 this order.

21 DATED this 22nd day of February, 1993.

22
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24 
25 SUSAN GALLINGER, Director
26 Arizona Department of Insurance

CONSENT TO ORDER

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3 1. The undersigned hereby acknowledges that he has read the
4 foregoing Findings of Fact, Conclusions of Law and Order and is
5 aware of his right to an administrative hearing in this matter and
6 has waived same.

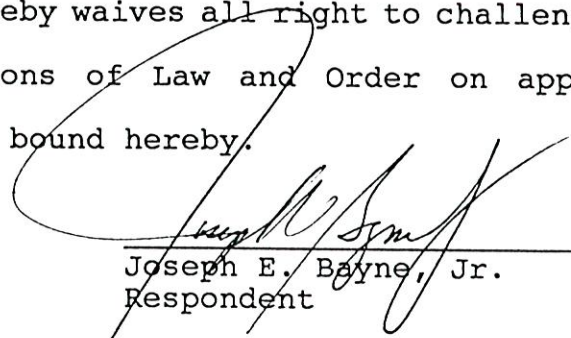
7 2. The undersigned admits the jurisdiction of the Department
8 and admits the foregoing Findings of Fact and consents to the
9 entry of the foregoing Conclusions of Law, and Order.

10 3. The undersigned states that no promise was made to induce
11 him to enter into this Consent Order and declares that he has
12 entered into this Consent Order voluntarily.

13 4. The undersigned acknowledges that acceptance of this
14 Consent Order is for the purpose of settling this litigation
15 against him, only, and does not preclude the Department of
16 Insurance, or any other agency or officer of this State, or
17 subdivision thereof, from instituting other civil or criminal
18 proceedings arising out of other transactions or occurrences, as
19 may be appropriate now or in the future, although no such actions
20 are presently known or contemplated by the Department.

21 5. The undersigned hereby waives all right to challenge such
22 Findings of Fact, Conclusions of Law and Order on appeal or
23 otherwise, and agrees to be bound hereby.

24 DATE: Feb 11, 1993



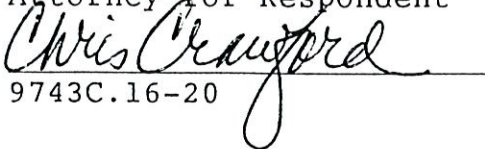
Joseph E. Bayne, Jr.
Respondent

1 COPY of the foregoing mailed this
2 22nd day of February, 1993, to:

3 Kathryn Leonard
4 Assistant Attorney General
5 1275 West Washington, Room 259
6 Phoenix, Arizona 85007

7 Joseph Hennelly, Deputy Director
8 Jay Rubin, Assistant Director, Investigations
9 Maureen Catalioto, Supervisor, Licensing
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11 3030 N. Third Street, Suite 1100
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18 San Diego, CA 92101
19 Attorney for Respondent

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