

JUN 24 1994

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE
By

In the Matter of:)	No. 8466
)	
PROGRAM INSURANCE SPECIALISTS, INC.,)	ORDER SUMMARILY SUSPENDING LICENSES AND NOTICE OF OPPORTUNITY FOR HEARING
Respondent.)	
_____)	

The Department of Insurance ("Department"), alleging below that Program Insurance Specialists, Inc. (the "Respondent") has violated the provisions of A.R.S. Title 20; and the Director of Insurance (the "Director") finding, pursuant to A.R.S. § 41-1064(C), that the public health, safety and welfare imperatively require emergency action;

IT IS HEREBY ORDERED summarily suspending Respondent's Arizona insurance licenses, effective immediately, pending the proceedings for revocation commenced this date.

DATED this 24th day of June, 1994.

Chris Herstam

CHRIS HERSTAM
Director of Insurance

NOTICE OF OPPORTUNITY FOR HEARING

Pursuant to Titles 20 and 41 of the Arizona Revised Statutes, and pursuant to this Order Summarily Suspending License and Notice of Opportunity for Hearing (the "Order"), Respondent is hereby notified that the Department alleges the following grounds to suspend, revoke or refuse to renew its insurance licenses, and that Respondent is entitled to request a hearing to

1 contest said allegations. Such a request must be in writing and
2 received at the following address within thirty (30) days from
3 the date of this Order:

4 Arizona Department of Insurance
5 Administrative Law Division
6 2910 North 44th Street
7 Phoenix, Arizona 85018

8 Upon receipt of a timely written request for hearing, the
9 Director will issue a statement setting the time and place of
10 the hearing. If no timely written request for hearing is
11 received, the Director will enter the following allegations as
12 findings of fact and conclusions of law, and will order the
13 revocation of Respondent's insurance licenses together with
14 appropriate civil penalties and restitution as allowed by law.

15 The Department alleges:

16 1. Respondent is licensed as a Life and Disability
17 and Property and Casualty insurance agent in this state (License
18 number 24036).

19 2. On or about October 15, 1993, Respondent submitted
20 applications for Life and Disability and Property and Casualty
21 insurance agency licenses.

22 3. In the Applications, James Chippendale
23 ("Chippendale") is President of Applicant corporation and
24 Douglas E. Smith ("Smith") is Secretary/Treasurer. Both
25 Chippendale and Smith signed the applications.

26 4. In Respondent's Application, question number 15
27 states:

28 "Has applicant and/or officer, director,
partner or licensed individual designated in
the license ever been a defendant or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

respondent in any civil, criminal or administrative case involving allegations of fraud, misappropriation, conversion, misrepresentation, dishonesty or breach of fiduciary duty?

The question was answered "No" on both Applications.

5. Contrary to the responses stated above, on May 31, 1993, Smith was served with a Summons, Complaint and Certificate of Compulsory Arbitration in Susan Gallinger, Director of Insurance of the State of Arizona, et al. v. AzStar Holding, Inc., et al., Maricopa County Superior Court, cause number CV93-06109.

6. On or about October 29, 1993, an Amended Complaint was filed in the above-referenced case.

7. Susan Gallinger as Director of Insurance, was the court-appointed receiver of AzStar Casualty Co., by the Order Appointing Receiver and Injunction, dated November 19, 1992 in State of Arizona, ex rel. Susan Gallinger v. AzStar Casualty Company, Maricopa County Superior Court, cause number CV92-20204.

8. AzStar Casualty is a wholly-owned subsidiary of AzStar Holdings, Inc. Smith was a director of AzStar Casualty and AzStar Holdings.

9. The Amended Complaint alleges that defendants AzStar Holdings, Smith and the other named defendants violated their fiduciary duties to AzStar Casualty.

10. On March 3, 1994, the Department advised Respondent that its application was denied pursuant to A.R.S. § 20-290(B)(1).

11. On March 22, 1994, Respondent timely demanded a hearing to contest the denial.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12. On April 28, 1994, the Department issued a Notice of Hearing setting the matter for hearing.

13. On May 25, 1994, the Superior Court of Maricopa County, Arizona issued a minute entry which ordered the Department to issue the subject licenses to Respondent due solely to the Department's failure to issue the Notice of Hearing within thirty (30) days after Respondent's demand therefore in accordance with A.R.S. § 20-161(B).

14. On June 23, 1994, the Department issued the subject licenses to Respondent in compliance with the Superior Court minute entry.

15. Respondent's conduct constitutes the existence of a cause for which the original issuance or any renewal of Respondent's licenses could have been refused, within the meaning of A.R.S. § 20-316(A)(1), together with A.R.S. § 20-290(B)(1).

16. The conduct described above constitutes the existence of misrepresentation or fraud in obtaining or attempting to obtain an insurance license, within the meaning of A.R.S. § 20-316(A)(3).

WHEREFORE, if Respondent does not request a hearing to contest the above allegations, or if after hearing the Director makes a finding of one or more of the above-alleged violations, he may suspend, revoke, or refuse to renew Respondent's insurance

. . .
. . .
. . .
. . .
. . .

1 licenses, impose civil penalties upon Respondent and order
2 restitution, pursuant to A.R.S. § 20-316(A) and 20-316(C).

3 DATED in Phoenix, Arizona this 24th day of June, 1994.

4
5 

6 CHRIS HERSTAM
7 Director of Insurance


8 Copy of the foregoing mailed/delivered this
9 24th day of June, 1994, to:

10 Chris Herstam, Director
11 Gay Ann Williams, Deputy Director
12 Charles R. Cohen, Executive Assistant Director
13 Gary Torticill, Assistant Director
14 Jay Rubin, Assistant Director
15 Deloris Williamson, Assistant Director
16 Maureen Catalioto, Licensing Supervisor
17 Department of Insurance
18 2910 North 44th Street, Ste. 210
19 Phoenix, AZ 85018

20 Felecia Rotellini
21 Assistant Attorney General
22 Consumer Protection and Antitrust Section
23 Attorney General's Office
24 1275 West Washington Street
25 Phoenix, AZ 85007

26 Frederick C. Berry, Jr.
27 4041 N. Central Ave., Ste. 800
28 Phoenix, AZ 85012
Attorney for Respondent

Program Insurance Specialists, Inc.
255 E. Osborn, #206
Phoenix, AZ 85012

22 
23 _____
24 Chris Crawford