

Maureen

STATE OF ARIZONA
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STATE OF ARIZONA

AUG 21 1990

DEPARTMENT OF INSURANCE DEPARTMENT OF INSURANCE

In the Matter of)
)
 KEVIN KAY ALLEN,)
)
 Respondent.)
 _____)

Docket No. 7164
ORDER

A hearing was held at the Department of Insurance on June 28, 1990. Respondent did not appear in person or through counsel. The Department was represented by Assistant Attorney General Charles R. Cohen.

Based upon testimony and other evidence presented at the hearing, the Director finds as follows:

FINDINGS OF FACT

1. On May 31, 1990, the Director issued an order summarily suspending Respondent's insurance licenses and setting a hearing for June 21, 1990.

2. This hearing was continued until June 28, 1990 at the request of counsel for Respondent and counsel for the Department.

3. Notice of this hearing was mailed to Respondent at his address of last record.

4. Respondent is presently, and was at all material times, licensed as an insurance agent and as an insurance adjuster (License No. 0701296, SSN 527-11-2142) by the Arizona Department of Insurance ("Department"). Respondent's licenses were suspended by Order of the Director dated May 31, 1990 pending the outcome of this hearing.

1 5. In approximately March, 1988, American
2 Pathfinders, Inc. ("Pathfinders") contracted with Old Hickory
3 Casualty Insurance Company ("Old Hickory") to perform managing
4 general agency services for Old Hickory.

5 6. Between approximately March, 1988 and April,
6 1990, Respondent was the claims manager and personnel manager
7 for Pathfinders.

8 7. During this time, Respondent was authorized to
9 sign checks on behalf of Pathfinders. Respondent also routinely
10 executed "check transmittal instruction sheets", forms utilized
11 by Pathfinders to indicate to whom checks were to be issued,
12 the amount of said checks, and how the checks were to be
13 delivered.

14 COUNT I

15 8. On or about February 19, 1989, Earl Shipe, an Old
16 Hickory policyholder, had his motor home towed to a repair shop,
17 and incurred \$124.42 in towing expenses. Shipe submitted this
18 towing bill to his insurance agent. The towing bill was
19 received by Pathfinders on March 3, 1989, and an automobile loss
20 notice was prepared. On or about March 23, 1989, Pathfinders
21 check number 8787 was issued to Earl Shipe in the amount of
22 \$75.00, the policy limit for towing expenses.

23 9. The automobile loss notice on the Shipe towing
24 claim was subsequently altered in handwriting identified as that
25 of Respondent. The alteration purports to include property
26 damage which allegedly occurred on or about February 19, 1989 as
27 a result of an accident involving Shipe's motor home and a
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1 "1988 Saab" owned by Louise Manning resulting in approximately
2 \$5,000 damage to Manning's vehicle.

3 10. On or about March 8, 1989, Pathfinders check
4 number 8788 was issued by Pathfinders to Valley Adjustment Co.
5 in the amount of \$40.50. The check bears the signature of
6 Respondent and references adjuster and appraisal expenses
7 associated with the Shipe claim.

8 11. Respondent is the owner of Valley Adjustment Co.,
9 and is one of the signers on the Valley Adjustment Co. bank
10 account.

11 12. On or about March 23, 1989, check number 9291 was
12 issued by Pathfinders to "Concours Paint & Body" in the amount
13 of \$5,408.68. The check bears Respondent's signature and
14 references property damage associated with the Shipe claim.
15 Respondent requested that this check be issued and that it be
16 forwarded to him.

17 13. The Shipes advised the Department that their
18 motor home had never been involved in any accident, and that the
19 only claim filed with Old Hickory was for the \$112.42 towing
20 expense.

21 14. Pathfinders check number 9291 was endorsed on the
22 back by Concours with the instruction "Pay to the order of
23 Settlers Claims Service". The Concours endorsement is followed
24 by the additional endorsement "For deposit only to Settlers
25 Claims Service".

26 15. Respondent is the owner of Settlers Claims
27 Service, a proprietorship, and is the sole signer on the
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1 Settlers Claims Service bank account into which Pathfinders
2 check number 9291 was deposited.

3 16. Respondent fraudulently altered the Shipe loss
4 notice to indicate property damage which did not occur, and
5 fraudulently requested payment to Concours Paint and Body in the
6 amount of \$5,408.68 and to Valley Adjustment Co. in the amount
7 of \$40.50 for services that had never been performed. These
8 payments were ultimately deposited into bank accounts owned and
9 controlled by Respondent, where they were converted to his own
10 use.

11 COUNT II

12 17. On or about January 12, 1989, an automobile loss
13 notice was prepared describing an accident involving Clint
14 Clark, the spouse of Old Hickory policyholder Lisa Clark, and
15 Daryl Olson. According to the automobile loss notice, Clark was
16 changing lanes and almost hit Olson's vehicle, causing Olson to
17 veer and strike the curb. The automobile loss notice includes
18 an estimate that the repair to the front tire and wheel of
19 Olson's vehicle would be \$389 plus the cost of alignment. An
20 estimate was subsequently prepared by Valley Adjustment Co.
21 estimating the total repair cost at \$456.43.

22 18. On or about March 13, 1989, Pathfinders check
23 number 9067 was issued by Pathfinders to Daryl Olson in the
24 amount of \$456.43. The check bears the signature of Respondent
25 and references the Clark claim.

26 19. On or about March 13, 1989, Pathfinders check
27 number 9068 was issued by Pathfinders to Valley Adjustment Co.
28 in the amount of \$134.00. This check bears the signature of

1 Respondent, and references adjuster and appraiser expenses
2 associated with the Clark claim.

3 20. On or about March 31, 1989, Pathfinders check
4 number 9616 was issued by Pathfinders to "Concours Paint and
5 Body" in the amount of \$7,086.35. This check bears the
6 signature of Respondent, and references the Clark claim.
7 Respondent requested that this check be issued, and that it be
8 forwarded to him.

9 21. Pathfinders check number 9616 was endorsed on the
10 back by Concours with the instruction "To: Settlers Claims
11 Services". The Concours endorsement was followed by the
12 additional endorsement "For deposit only to Settlers Claims
13 Service", the account controlled by Respondent.

14 22. Daryl Olson advised the Department that he has
15 never had any repairs to his vehicle performed by Concours and
16 that the damage to his vehicle resulting from his near-collision
17 with the Clark vehicle was much less extensive than would
18 warrant a \$7,000 payment.

19 23. Lisa Clark advised the Department that her
20 vehicle had not been damaged in the accident with Olson, and
21 that no repair work had been performed on her vehicle.

22 24. Respondent fraudulently authorized and issued
23 payment to Concours Paint and Body in the amount of \$7,086.35
24 for services that had never been performed. This payment was
25 ultimately deposited into a bank account owned and controlled by
26 Respondent, where it was converted to his own use.

1 25. No evidence was presented to show that Valley
2 Adjustment Co. did not perform the services for which payment
3 was issued.

4 COUNT III

5 26. On or about June 24, 1989, an automobile loss
6 notice was prepared describing an accident involving Amelia
7 Cordova, an Old Hickory policyholder, and a vehicle belonging to
8 Lester Billings. According to the automobile loss notice,
9 Cordova struck the rear of the Billings vehicle, which was
10 stopped at a red light. The automobile loss notice indicates
11 that the accident was reported to the police and that Cordova
12 was cited, and also indicates that the repair to the Billings
13 vehicle would be approximately \$10,000.

14 27. On or about July 5, 1989, Pathfinders check
15 number 13506 was issued by Pathfinders to Classic Coach in the
16 amount of \$9,408.70. The check bears the signature of
17 Respondent, and references the Cordova claim. A notation on the
18 check receipt retained by Pathfinders states "Sent to Kevin
19 7-7-89".

20 28. On or about July 5, 1989, Pathfinders check
21 number 13505 was issued by Pathfinders to Valley Adjustment Co.
22 in the amount of \$163.60. The check bears the signature of
23 Respondent, and references adjuster and appraisal expenses
24 associated with the Cordova claim.

25 29. Amy Cordova advised the Department that she had
26 never been involved in any accident. The Phoenix Police
27 Department has no accident on record.

1 30. Pathfinders check number 13506 was endorsed on
2 the back by Classic Coach. The Classic Coach endorsement is
3 followed by the endorsement "For Deposit Only to Settlers Claims
4 Service", the account controlled by Respondent.

5 31. Respondent fraudulently authorized and issued
6 payments to Classic Coach in the amount of \$9,408.70 and to
7 Valley Adjustment Co. in the amount of \$163.60 for services that
8 were never performed. These amounts were ultimately deposited
9 into bank accounts controlled by Respondent, where they were
10 converted to his own use

11 COUNT IV

12 32. On or about January 1, 1989, an automobile loss
13 notice was prepared describing an accident involving Raymond
14 Rogers, an Old Hickory policyholder, and vehicles belonging to
15 Donna Hyatt and Damon Nugis. According to the automobile loss
16 notice, Rogers' vehicle went over the curb and struck the
17 vehicles belonging to Hyatt and Nugis, then Rogers left the
18 scene. The automobile loss notice indicates that the accident
19 was reported to the police and that Rogers was cited for
20 possible driving while intoxicated, and also indicated that the
21 repair to the Hyatt vehicle would be approximately \$5,000, and
22 repair to the Nugis vehicle would be approximately \$8,000.

23 33. On or about April 4, 1989, Pathfinders check
24 number 10153 was issued by Pathfinders to Concours Paint and
25 Body in the amount of \$7,200. The check bears the signature of
26 Respondent, and references the Rogers claim and claimants Nugis
27 and Hyatt.

1 34. On or about April 11, 1989, Pathfinders check
2 number 10154 was issued by Pathfinders to Valley Adjustment Co.
3 in the amount of \$235.60. The check bears the signature of
4 Respondent, and references adjuster and appraisal expenses
5 associated with the Rogers claim.

6 35. Raymond Rogers advised the Department that he has
7 not been involved in any accidents and has no knowledge of this
8 claim. The Phoenix Police Department has no record of the
9 purported accident.

10 36. Pathfinders check number 10153 was endorsed on
11 the back by Concours Paint and Body. The Concours endorsement
12 is followed by the endorsement "For Deposit Only to Settlers
13 Claims Service", the account owned and controlled by Respondent.

14 37. Respondent fraudulently authorized and issued
15 payments to Concours in the amount of \$7,200 and to Valley
16 Adjustment Co. in the amount of \$235.60 for services that were
17 never performed. These amounts were ultimately deposited into
18 bank accounts owned and controlled by Respondent, where they
19 were converted to his own use.

20 COUNT V

21 38. On or about March 1, 1989, an automobile loss
22 notice was prepared describing an accident involving Stephen
23 Johnston, an Old Hickory policyholder, and a vehicle belonging
24 to Kwan Do Jang. According to the automobile loss notice,
25 Johnston was unable to stop his vehicle and struck the Jang
26 vehicle in the rear. The automobile loss notice indicates that
27 the accident was reported to the police and that Johnson was
28 cited, and also indicates that the repair to Johnston's vehicle

1 would be approximately \$2,500 and to repair the Jang vehicle
2 would be approximately \$10,000.

3 39. On or about April 11, 1989, Pathfinders check
4 number 10156 was issued by Pathfinders to Concours Paint and
5 Body in the amount of \$8,838.90. The check bears the signature
6 of Respondent, and references the Johnston claim.

7 40. On or about April 11, 1989, Pathfinders check
8 number 10155 was issued by Pathfinders to Valley Adjustment Co.
9 in the amount of \$262.80. The check bears the signature of
10 Respondent and the facsimile signature of Conrad Allen, and
11 references adjuster and appraisal expenses associated with the
12 Johnston claim.

13 41. Stephen Johnston advised the Department that he
14 had not been involved in any automobile accidents.

15 42. Pathfinders check number 10156 described in
16 paragraph 36 was endorsed on the back by Concours to Settlers
17 Claims Service. The Concours endorsement is followed by the
18 additional endorsement "For Deposit Only to Settlers Claims
19 Service", the account owned and controlled by Respondent.

20 43. Respondent fraudulently authorized and issued
21 payments to Concours in the amount of \$8,838.90 and to Valley
22 Adjustment Co. in the amount of \$262.80 for services that were
23 never performed. These amounts were ultimately deposited into
24 bank accounts owned and controlled by Respondent, where they
25 were converted to his own use.

COUNT VI

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2 44. On or about May 4, 1989, an automobile loss
3 notice was prepared describing an accident involving Rafael
4 Yescas, an Old Hickory policyholder, and Donna Peacock.
5 According to the automobile loss notice, Peacock was cited for
6 failure to yield, and both vehicles were damaged.

7 45. Colonial Penn, Peacock's insurer, presented a
8 subrogation claim in the amount of \$1,137.01, the cost of
9 repairs to Peacock's vehicle.

10 46. On or about January 1, 1989, a Pathfinders check,
11 the number on which is illegible, was issued by Pathfinders to
12 Arizona Collision in the amount of \$5,286.00. The signature on
13 the check is illegible. The check references the Yescas' claim.

14 47. On or about January 1, 1989, another Pathfinders
15 check, the number on which is illegible, was issued by
16 Pathfinders to Valley Adjustment Co. in the amount of \$48.00.
17 The signature on the check is illegible. The check references
18 the Yescas' claim.

19 48. There was no documentation in the Yescas' claim
20 file to support the payments to Arizona Collision or to Valley
21 Adjustment Co. However, there was no showing that the monies
22 paid by Pathfinders to Arizona Collision were converted by
23 Respondent, and there was no showing that Valley Adjustment Co.
24 did not perform the services in connection with the subrogation
25 claim for which payment was made.

COUNT VII

26 49. On or about May 30, 1989, an automobile loss
27 notice was prepared describing an accident involving Basilio

1 Calderillo, an Old Hickory policyholder, and a vehicle owned by
2 David Moody. According to the automobile loss notice,
3 Calderillo ran a red light and collided with Moody, damaging
4 Moody's vehicle and injuring both Calderillo and Moody. The
5 automobile loss notice indicates that the repair to the Moody
6 vehicle would be approximately \$10,000.

7 50. On or about May 31, 1989, Pathfinders check
8 number 12157 was issued by Pathfinders to David Moody in the
9 amount of \$10,000. The check bears the signature of Respondent,
10 and references that it is a payment for property damage. A
11 notation on the check receipt retained by Pathfinders states
12 "Gave to Kevin 6-1-89".

13 51. On or about May 31, 1989, Pathfinders check
14 number 12156 was issued by Pathfinders to David Moody in the
15 amount of \$3,700. The check bears the signature of Respondent,
16 and references that it is a payment for bodily injury. A
17 notation on the check receipt retained by Pathfinders states
18 "Gave to Kevin 6-1-89".

19 52. On or about May 31, 1989, Pathfinders check
20 number 12155 was issued by Pathfinders to Valley Adjustment Co.
21 in the amount of \$276.00. The check bears the signature of
22 Respondent, and references adjuster and appraiser expenses
23 associated with the Calderillo claim.

24 53. Basilio Calderillo advised the Department that he
25 had not been involved in any automobile accidents.

26 54. Respondent fraudulently created a loss report to
27 indicate property damage and bodily injury that did not occur
28 and fraudulently authorized and issued payments to David Moody

1 in the amounts of \$10,000 and \$3,700 for damages and injuries
2 that did not exist and to Valley Adjustment Co. in the amount of
3 \$276.00 for services that it did not perform. The \$276.00 was
4 ultimately deposited into a bank account controlled by
5 Respondent, where it was converted to his own use. There was no
6 evidence presented to show the disposition of the monies paid to
7 Moody.

8 COUNT VIII

9 55. On or about January 17, 1989, an automobile loss
10 notice was prepared describing an accident involving Norman
11 Brocker, an Old Hickory policyholder, and a vehicle belonging to
12 Jack Perkins. Brocker's vehicle was a 1981 Buick Electra and
13 Perkins' vehicle was a 1987 Hyundai. According to the
14 automobile loss notice, Brocker backed into Perkins' vehicle,
15 resulting in an estimated \$350.00 damage to the Brocker vehicle,
16 and an estimated \$895.00 damage to the Perkins vehicle.

17 56. On or about January 25, 1989, Valley Adjustment
18 Co. prepared an appraisal indicating a total repair cost of
19 \$594.60. On or about January 25, 1989, Valley Adjustment Co.
20 prepared a closing report directed to Respondent requesting that
21 a draft payable to Jack Perkins be issued in the amount of
22 \$594.60.

23 57. On or about January 27, 1989, Pathfinders check
24 number 6695 was issued by Pathfinders to Valley Adjustment Co.
25 in the amount of \$162.25. The check bears the signature of
26 Respondent, and references adjuster and appraisal expenses.

27 58. On or about January 27, 1989, Pathfinders check
28 number 6694 was issued by Pathfinders to Jack Perkins in the

1 amount of \$594.60. The check bears the signature of Respondent,
2 and references the Brocker claim.

3 59. On or about March 6, 1989, Pathfinders check
4 number 8688 was issued by Pathfinders to Concours Paint and Body
5 in the amount of \$5,408.68. The check bears the signature of
6 Respondent, and references that it is a property damage
7 supplement on the Brocker claim.

8 60. The Brocker file contained a copy of a damage
9 evaluation in the amount of \$5,408.68 for a 1988 Subaru.
10 None of the vehicles involved in the Brocker accident are
11 Subarus.

12 61. Pathfinders check number 8688 was endorsed on the
13 back by Concours with the instruction "Pay to the order of
14 Settlers Claims". The Concours endorsement is followed by the
15 endorsement "For Deposit Only to Settlers Claims Service", the
16 account owned and controlled by Respondent.

17 62. Respondent fraudulently utilized an unrelated
18 damage evaluation to indicate property damage that did not
19 occur, and fraudulently authorized and issued payment to
20 Concours in the amount of \$5,408.68 for services that were never
21 performed. This amount was ultimately deposited into a bank
22 account owned and controlled by Respondent. There was no
23 evidence presented at the hearing to prove that Valley
24 Adjustment Co. did not render the adjuster and appraisal
25 services for which payment was made.

26 COUNT IX

27 63. On March 31, 1989, an automobile loss notice was
28 prepared describing an accident involving Wendy Schmell, an Old

1 Hickory policyholder, and a vehicle driven by Sailai Hycambi.
2 According to the automobile loss notice, Schmell turned in front
3 of Hycambi on a green light. The automobile loss notice
4 indicates that the accident was reported to the Peoria Police
5 Department and that Schmell was cited, and also indicates that
6 the Schmell vehicle was a total loss and the Hycambi vehicle was
7 possibly a total loss estimated at \$12,000. The notice further
8 indicates that Hycambi and her passenger were injured.

9 64. On April 17, 1989, Pathfinders check number 10383
10 was issued by Pathfinders to Concours in the amount of
11 \$9,686.80. The check bears the signature of Respondent, and
12 references the Schmell claim.

13 65. On May 25, 1989, Pathfinders check number 11931
14 was issued by Pathfinders to Valley Adjustment Co. in the amount
15 of \$260.30. The signature on the check is illegible. The check
16 references the claim number assigned to the Schmell claim.

17 66. Wendy Schmell advised the Department that she was
18 not involved in any automobile accidents.

19 67. Pathfinders check number 10383 described in
20 paragraph 62 was endorsed on the back by Concours with the
21 instruction "to Settlers Claims Service". The Concours
22 endorsement is followed by the endorsement "For Deposit Only to
23 Settlers Claims Service", the account owned and controlled by
24 Respondent.

25 68. Respondent fraudulently authorized and issued
26 payments to Concours in the amount of \$9,686.80 and to Valley
27 Adjustment Co in the amount of \$260.30 for services that were
28 not performed. These amounts were ultimately deposited into

1 bank accounts owned and controlled by Respondent, where they
2 were converted to his own use.

3 COUNT X

4 69. On November 9, 1989, Respondent prepared an
5 automobile loss notice describing an accident involving James
6 Young, an Old Hickory policyholder. According to the automobile
7 loss notice, the accident occurred in the parking lot of an
8 apartment complex and no other vehicle was involved. The loss
9 notice indicates that the Tempe Police Department was contacted,
10 and damage to two walls of the complex was estimated at \$15,000.

11 70. On or about November 14, 1989, Pathfinders check
12 number 20490 was issued by Pathfinders to Concours Paint and
13 Body in the amount of \$9,660.67. The check bears the signature
14 of Respondent, and references the Young claim.

15 71. Also on or about November 14, 1989, Pathfinders
16 check number 20491 was issued by Pathfinders to Valley
17 Adjustment Co. in the amount of \$190.60. The check bears the
18 signature of Respondent, and also references the Young claim.

19 72. Pathfinders check number 20490 described in
20 paragraph 68 was endorsed on the back by Concours with the
21 instruction "to Settlers Claims Service". The Concours
22 endorsement is followed by the endorsement "Settlers Claims
23 Service by Kevin Allen".

24 73. No evidence was presented to show that this was a
25 fraudulent claim or that the payments received by Concours and
26 Valley Adjustment Co. were not for services performed by
27 Concours and Valley Adjustment.
28

COUNT XI

1
2 74. On or about January 17, 1989, an automobile loss
3 notice was prepared describing an accident involving John
4 Denovich, an Old Hickory policyholder, and Laura Gomez.
5 According to the loss notice, Denovich struck the rear of the
6 Gomez vehicle, which was stopped. The loss report indicates
7 that the front fender of the Denovich vehicle was damaged, and
8 the rear of the Gomez vehicle was damaged. No estimates were
9 included on the loss notice.

10 75. The Denovich claim file contained two estimates.
11 On or about January 23, 1989, Valley Adjustment Co. prepared an
12 estimate for repairs to the Gomez vehicle, and indicated that
13 the total repair cost was \$774.60. Also on January 23, 1989,
14 another estimate was prepared by Valley Adjustment Co., which
15 indicated that the total repair cost was \$425.38. No
16 explanation was offered as to why two inconsistent estimates
17 were prepared on the same vehicle.

18 76. On or about January 27, 1989, Pathfinders check
19 number 6688 was issued by Pathfinders to Laura Gomez in the
20 amount of \$425.38. The check bears the signature of Respondent,
21 and references property damage associated with the Denovich
22 claim.

23 77. On or about April 21, 1989, Pathfinders check
24 number 10571 was issued by Pathfinders to Laura Gomez in the
25 amount of \$1,000. The check bears the signature of Respondent,
26 and references bodily injury associated with the Denovich claim.
27
28

1 78. On or about January 26, 1989, Valley Adjustment
2 Co. submitted an invoice in the amount of \$166 for adjuster
3 time, appraisal(s), photos phone calls, and clerical services.

4 79. On or about January 27, 1989, Pathfinders check
5 number 6689 was issued by Pathfinders to Valley Adjustment Co.
6 in the amount of \$166. The check bears the signature of
7 Respondent, and references adjuster and appraiser expenses
8 associated with the Denovich claim.

9 80. On or about April 13, 1989, Valley Adjustment Co.
10 submitted an invoice in the amount of \$131.25 for adjuster time,
11 telephone calls, and clerical services.

12 81. On or about April 17, 1989, Pathfinders check
13 number 10327 was issued by Pathfinders to Valley Adjustment Co.
14 in the amount of \$131.25. The check bears the signature of
15 Respondent, and references adjuster and appraiser expenses
16 associated with the Denovich claim.

17 82. On or about May 18, 1989, Pathfinders check
18 number 11486 was issued by Pathfinders to Precision Auto Body in
19 the amount of \$6,280. The check bears the signature of
20 Respondent, and references property damage associated with the
21 Denovich claim.

22 83. Pathfinders check number 11486 to Precision Auto
23 Body referenced in paragraph 82 was issued pursuant to a check
24 transmittal instruction sheet executed by Respondent that
25 contained the instruction that the check be given to
26 Respondent.

27 84. Laura Gomez indicated to the Department that her
28 vehicle was not repaired by Precision Auto Body, and further

1 indicated that the damage to her vehicle resulting from her
2 accident with Denovich was less extensive than would warrant a
3 \$6,280 payment.

4 85. Pathfinders check number 11486 to Precision Auto
5 Body was endorsed on the back with the instruction "For deposit
6 only to Settlers Claims Service", the account controlled by
7 Respondent.

8 86. Respondent fraudulently authorized and issued
9 payment to Precision Auto Body in the amount of \$6,280 for
10 services that had never been performed. This payment was
11 ultimately deposited into a bank account that is owned and
12 controlled by Respondent, where it was converted to his own use.

13 87. No evidence was presented to prove that Valley
14 Adjustment Co. did not render the adjuster and appraisal
15 services for which payment was received.

16 COUNT XII

17 88. On or about April 31, 1989, an automobile loss
18 notice was prepared describing an accident involving Terry
19 Darlow, an Old Hickory policyholder, and a vehicle owned by
20 Janice Tucker. According to the automobile loss notice, Darlow
21 struck the rear of the Tucker vehicle, which was stopped,
22 damaging the front end of Darlow's vehicle and the rear bumper
23 of Tucker's vehicle.

24 89. On or about February 18, 1989, Valley Adjustment
25 prepared an estimate for repairs to the Tucker vehicle, and
26 indicated that the total repair cost would be \$279.91.

1 90. On or about February 15, 1989, Tucker executed a
2 release of all claims arising from the accident in consideration
3 for \$279.56.

4 91. On or about February 28, 1989, Pathfinders check
5 number 8453 was issued to Janice Tucker in the amount of
6 \$279.91. The check bears the signature of Respondent, and
7 references property damage associated with the Darlow claim.

8 92. On or about February 22, 1989, Valley Adjustment
9 Co. submitted an invoice in the amount of \$134 for adjuster
10 time, photos, telephone calls, clerical services and
11 appraisal(s) associated with the Darlow claim.

12 93. On or about February 22, 1989, Valley Adjustment
13 Co. prepared an "Adjuster's Transmittal Report" directed to the
14 attention of Kevin Allen, indicating that the claim had been
15 settled and the file was closed.

16 94. On or about February 22, 1989, Pathfinders check
17 number 8454 was issued to Valley Adjustment Co. in the amount of
18 \$134. This check bears the signature of Respondent, and
19 references the Darlow claim.

20 95. On or about March 31, 1989, Pathfinders check
21 number 9087 was issued by Pathfinders to Concours Paint and Body
22 in the amount of \$8,867.76. The check bears the signature of
23 Respondent, and references the Darlow claim.

24 96. Included in the Darlow claim file is a repair
25 estimate on a 1988 Ford Thunderbird in the amount of \$8,867.76
26 owned by Clarence Summerfield. This vehicle was not involved in
27 the Darlow/Tucker accident.

1 97. The check transmittal instruction sheet executed
2 by Respondent indicates that the check to Concours Paint and
3 Body in the amount of \$8,867.76 was to be forwarded to
4 Respondent, and the file was to be closed.

5 98. Pathfinders check number 9087 was endorsed on the
6 back by Concours with the instruction "Pay to the order of
7 Settlers Claims Service". The Concours endorsement is followed
8 by the endorsement "For deposit only to Settlers Claims
9 Service", the account owned and controlled by Respondent.

10 99. Respondent fraudulently authorized and issued
11 payments to Concours Paint and Body in the amount of \$8,867.76
12 for services that were never performed. This amount was
13 ultimately deposited in a bank account controlled by Respondent
14 where it was converted to his own use.

15 100. No evidence was presented to show that the
16 services for which Valley Adjustment Co. was paid were not
17 actually performed.

18 COUNT XIII

19 101. On or about November 8, 1988, Respondent
20 prepared an automobile loss notice describing an accident
21 involving Joseph W. Aston, an Old Hickory policyholder, and
22 Daniel Rnahatsu. According to the loss notice, the right side
23 of Aston's vehicle sustained an estimated \$3,500 damage, and the
24 front end of the Rnahatsu's 1988 Dodge Ram charger sustained
25 approximately \$10,000 damage.

26 102. On or about November 10, 1988, Valley Adjustment
27 Co. prepared an estimate for repairs on Rnahatsu's vehicle.
28

1 103. On November 14, 1988, Pathfinders check number
2 5785 was issued by Pathfinders to Concours Paint and Body in the
3 amount of \$9,433.13. The check bears the signature of
4 Respondent, and references property damage on the Aston claim.
5 The check transmittal sheet indicates that this check was given
6 to Respondent on November 14, 1988.

7 104. Pathfinders check number 5785 was endorsed on
8 the back by Concours Paint and Body. The Concours endorsement
9 is followed by the endorsement of Respondent, along with an
10 instruction that is not legible.

11 105. On November 15, 1988, Settlers Claims Service
12 submitted an invoice in the amount of \$93.15 for adjuster time,
13 telephone calls, clerical services and miscellaneous other
14 services.

15 106. On November 15, 1988, Pathfinders check number
16 5792 was issued by Pathfinders to Settlers Claims Service in the
17 amount of \$93.15. The check bears the signature of Respondent,
18 and references the Aston claim number.

19 107. Joseph Aston advised the Department that he was
20 not involved in any accident.

21 108. Respondent prepared a fraudulent automobile loss
22 notice, and fraudulently authorized and issued payment to
23 Concours in the amount of \$9,433.13 and to Settlers Claims
24 Service in the amount of \$93.15 for services that were never
25 performed. These payments were ultimately deposited into bank
26 accounts owned and controlled by Respondent, where they were
27 converted to his own use.
28

COUNT XIV

1
2 109. On or about February 16, 1989, an automobile
3 loss notice was prepared describing an accident involving John
4 Clever, an Old Hickory policyholder, and a vehicle belonging to
5 Edward Kloster. According to the loss notice, Kloster was
6 traveling the wrong way through a parking lot and struck the
7 Clever vehicle.

8 110. On or about March 2, 1989, Valley Adjustment Co.
9 submitted a closing report to Respondent, indicating that
10 Kloster's insurance company was going to handle the damages to
11 Clever's vehicle.

12 111. On or about March 3, 1989, Valley Adjustment Co
13 submitted an invoice for \$75.00 for adjuster time, telephone
14 calls and clerical services associated with the Clever claim.

15 112. On March 6, 1989, Pathfinders check number 8723
16 in the amount of \$75.00 was was issued by Pathfinders to Valley
17 Adjustment Co. The check bears the signature of Respondent, and
18 references adjuster and appraiser expenses associated with the
19 Clever claim.

20 113. On or about May 18, 1989, Pathfinders check
21 number 11484 was issued to Precision Paint and Body in the
22 amount of \$6,686.64. The check bears the signature of
23 Respondent, and references property damage associated with the
24 Clever claim. The check receipt retained by Pathfinders
25 contains the notation "Kevin to deliver check 5-19-89".

26 114. Pathfinders check number 11484 was endorsed on
27 the back by Precision Paint and Body. The Precision endorsement
28

1 is followed by the endorsement "For deposit only to Settlers
2 Claims Service", the account owned and controlled by Respondent.

3 115. Respondent fraudulently authorized and issued
4 payments to Precision Paint and Body in the amount of \$6,686.64
5 for services that were never performed. This amount was
6 ultimately deposited in a bank account controlled by Respondent
7 where it was converted to his own use.

8 116. No evidence was presented to show that the
9 services for which Valley Adjustment Co. submitted an invoice
10 were not performed.

11 COUNT XV

12 117. On January 3, 1989, an automobile loss notice
13 was prepared describing an accident involving Sadelia Slater, an
14 Old Hickory policyholder, and hit and run driver. According to
15 the automobile loss notice, the front fender and driver's side
16 of Slater's 1987 Chevrolet Nova Coupe was damaged.

17 118. On or about January 10, 1989, Valley Adjustment
18 Co. prepared an estimate of repairs for Slater's vehicle. The
19 total repair cost was \$1,161.05. From this, Valley Adjustment
20 Co. deducted Slater's \$250 deductible, leaving a total of
21 \$911.05.

22 119. On January 12, 1989, Valley Adjustment Co.
23 submitted to Respondent a closing report, requesting that a
24 draft in that amount of \$911.05 be issued to Slater to settle
25 her claim.

26 120. On January 16, 1989, Pathfinders check number
27 6293 was issued by Pathfinders to Slater in the amount of
28

1 \$911.05 The check bears the signature of Respondent, and
2 references the Slater claim number.

3 121. On January 13, 1989, Valley Adjustment Co.
4 submitted an invoice in the amount of \$134.00 for adjuster time,
5 photos, telephone calls, clerical services and appraisals
6 relating to the Slater claim.

7 122. On or about March 23, 1989, Pathfinders check
8 number 9290 was issued by Pathfinders to Concours Paint & Body
9 in the amount of \$3,787.40. The bears the signature of
10 Respondent, and references property damage relating to the
11 Slater claim.

12 123. Included in the Slater claim file is a repair
13 estimate in the amount of \$3,787.40 for a 1987 Chevrolet
14 Camero. In addition to being a different model than Slater's,
15 the vehicle identification number on the estimate is different
16 than the vehicle identification number on the loss notice.

17 124. Pathfinders check number 9290 was endorsed on
18 the back by Concours with the instruction "Pay to the order of
19 Settlers Claims Service." The Concours endorsement is followed
20 by the endorsement "For deposit only to Settlers Claims
21 Service", the account which Respondent owns and controls.

22 125. Respondent fraudulently authorized and issued
23 payments to Concours in the amount of \$3,787.40 for services
24 that were never performed. This amount was ultimately deposited
25 into a bank account owned and controlled by Respondent, where
26 they were converted to his own use.

COUNT XVI

1
2 126. On or about March 24, 1989, an automobile loss
3 notice was prepared describing an accident involving John
4 Dawson, an Old Hickory policyholder. According to the loss
5 notice, the accident occurred on November 16, 1988, and a
6 utility pole was damaged.

7 127. On April 20, 1989, Valley Adjustment Co.
8 submitted to Respondent a closing report, requesting that a
9 draft be issued to Salt River Project in the amount of \$271.95
10 in settlement of this claim.

11 128. Also on April 20, 1989, Valley Adjustment Co.
12 submitted an invoice in the amount of \$105.00 for adjuster time,
13 telephone calls and clerical services associated with the Dawson
14 claim.

15 129. On or about April 24, 1989, Pathfinders check
16 number 10671 was issued by Pathfinders to Salt River Project in
17 the amount of \$271.95. This check bears the signature of
18 Respondent, and references the Dawson claim.

19 130. On or about April 24, 1989, Pathfinders check
20 number 10671 was issued by Pathfinders to Valley Adjustment Co.
21 in the amount of \$105.00. This check bears the signature of
22 Respondent, and references the Dawson claim.

23 131. On May 18, 1989, Pathfinders check number 11485
24 was issued by Pathfinders to Concours Paint and Body in the
25 amount of \$7,083.56. The check bears the signature or
26 Respondent, and references the Dawson claim. The check receipt
27 retained by Pathfinders contains the notation "Kevin to deliver
28 5-19".

1 132. The Dawson claim was settled and closed on or
2 about April 24, 1989, and there was no documentation in the
3 claim file to support the payment to Concoours.

4 133. Pathfinders check number 11485 was endorsed on
5 the back by Concoours Paint and Body. The Concoours endorsement
6 is followed by the additional endorsement "For deposit only to
7 Settlers Claims Service".

8 134. Respondent fraudulently requested and issued
9 payment to Concoours Paint and Body in the amount of \$7,083.56
10 for services that had never been performed. This payment was
11 ultimately deposited into a bank account owned and controlled by
12 Respondent, where it was converted to his own use.

13 135. No evidence was presented to show that the
14 payment to Valley Adjustment Co. was not for services actually
15 performed.

16 COUNT XVII

17 136. On or about February 13, 1989, an automobile
18 loss notice was prepared describing an accident involving Cheryl
19 Koch and a vehicle owned by Valley National Bank Leasing.
20 According to the loss notice, the Koch vehicle rolled backwards
21 and struck the Valley Bank vehicle, causing damage to the front
22 fender and light of the Valley Bank vehicle.

23 137. On or about February 20, 1989, Valley Adjustment
24 Co. prepared an estimate indicating that the total repairs to
25 the Valley Bank vehicle would be \$265.27.

26 138. On or about March 6, 1989, Valley Adjustment Co.
27 submitted a closing report to Respondent, requesting a draft to
28

1 be issued to Valley Bank in the amount of \$265.27 and indicating
2 that the claim file would be closed.

3 139. On March 9, 1989, Pathfinders check number 8852
4 was issued by Pathfinders to Valley National Bank Leasing in the
5 amount of \$265.27. The check bears Respondent's signature, and
6 references the Koch claim.

7 140. On or about March 7, 1989, Valley Adjustment Co.
8 submitted an invoice in the amount of \$141.50 for adjuster time,
9 photos, telephone calls, clerical services and appraisals
10 associated with the Koch claim.

11 141. On or about March 9, 1989, Pathfinders check
12 number 8851 was issued to Valley Adjustment Co. in the amount of
13 \$141.50. This check bears Respondent's signature, and
14 references the Koch claim number.

15 142. On or about April 24, 1989, Pathfinders check
16 number 8902 was issued by Pathfinders to Precision Collision in
17 the amount of \$6,860.42. The check bears Respondent's
18 signature, and references property damage on the Koch claim.
19 There was no documentation in the claim file to support this
20 payment.

21 143. No evidence was presented to show where
22 Pathfinders check number 8902 was deposited, and no evidence was
23 presented to show that the payment to Valley Adjustment Co. was
24 not for services actually performed.

25 COUNT XVIII

26 144. On or about November 9, 1989, an automobile loss
27 notice was prepared describing an accident involving Heather
28 Piantanida and Margaret Espanoza. According to the loss notice,

1 Piantanida changed lanes and failed to yield to the Espanoza
2 vehicle, causing approximately \$8,000 damage to the Piantanida
3 vehicle and approximately \$10,000 damage to the Espanoza
4 vehicle.

5 145. On or about November 14, 1989, Pathfinders check
6 number 20493 was issued by Pathfinders to Desperados Auto Body
7 in the amount of \$8,064.

8 146. Pathfinders check number 20493 was endorsed on
9 the back by Desperados Auto Body. The Desperados endorsement is
10 followed by the endorsement of Settlers Claim Service and
11 Respondent's signature.

12 147. Piantanida advised the Department that she was
13 not involved in an automobile accident.

14 148. Respondent fraudulently requested payment to
15 Desperados Auto Body in the amount of \$8,064 for services that
16 were never performed. This payment was ultimately deposited
17 into a bank account owned and controlled by Respondent, where it
18 was converted to his own use.

19 CONCLUSIONS OF LAW

20 1. Respondent's conduct as described in Counts I
21 through V, VII through IX, XI through XVI and XVIII constitutes
22 misappropriation or conversion to Respondent's own use or
23 illegal withholding of monies belonging to policyholders,
24 insurers, beneficiaries or others received in or during the
25 conduct of business under the license of through its use within
26 the meaning of A.R.S. §20-316(A)(4).

27 2. Respondent's conduct as described in Counts I
28 through XVIII indicates that Respondent is incompetent or a

1 source of injury and loss to, or repeated complaint by, the
2 public or any insurer within the meaning of A.R.S. §20-316(A)(7).

3 3. Respondent's conduct as described in Counts I
4 through XVIII was knowing and willful within the meaning of
5 A.R.S. §20-316(A)(2) and (C).

6 4. Pursuant to A.R.S. §20-316(C), it is within the
7 Director's discretion to revoke Respondent's insurance licenses,
8 to impose civil penalties, and to order Respondent to pay
9 restitution to any party injured by his actions.

10 5. Each of Counts I through XVIII constitutes a
11 separate violation of Title 20, and each Count alone would
12 justify the revocation of Respondent's licenses, the imposition
13 of civil penalties and an order of restitution.

14 6. The summary suspension of Respondent's insurance
15 licenses was necessary to protect the public health, safety and
16 welfare pursuant to A.R.S. §41-1064(C).

17 IT IS HEREBY ORDERED THAT

18 1. Any and all of Respondent's insurance licenses
19 are revoked effective this date.

20 2. Respondent shall pay a civil penalty of \$15,000
21 to the Arizona Department of Insurance on or before August 31,
22 1990.

23 3. Respondent shall pay restitution to Pathfinders
24 in the amount of \$118,272.55 on or before August 31, 1990, and
25 shall verify to the Department that said amount has been paid.
26 To the extent that Old Hickory can show that it has reimbursed

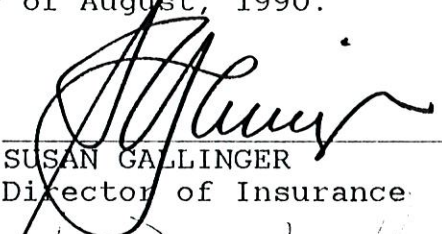
27 . . .

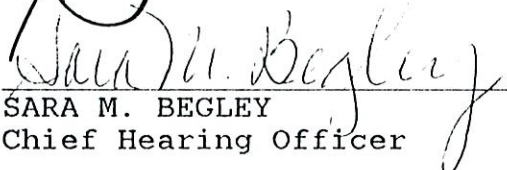
28 . . .

1 Pathfinders for all or a portion of this amount, Old Hickory and
2 not Pathfinders shall be entitled to restitution from Respondent
3 to the extent of the reimbursement.

4 4. The aggrieved party may request a rehearing with
5 respect to this Order by filing a written petition with the
6 Hearing Officer within 30 days of the date of this Order,
7 setting forth the basis for such relief pursuant to A.R.S.
8 §20-1062(B) and A.A.C. R4-14-159.

9 DATED this 21st day of August, 1990.

10
11 
12 SUSAN GALLINGER
13 Director of Insurance

14 
15 SARA M. BEGLEY
16 Chief Hearing Officer

17 COPY of the foregoing mailed/delivered
18 this 21st day of August, 1990, to:

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