

STATE OF ARIZONA
Department of Insurance and Financial Institutions
FILED February 14, 2024 by AS

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

ROTH-GONZALEZ, CHARLES DAVID

(National Producer Number 19303198)

No. 23A-084-INS

ORDER

Respondent.

On January 30, 2024, the Office of Administrative Hearings, through Administrative Law Judge Amy M. Haley, issued an Administrative Law Judge Decision (“Recommended Decision”). The Arizona Department of Insurance and Financial Institutions’ (“Department”) Executive Deputy Director (“EDD”) received the Recommended Decision on the same date, a copy of which is attached and incorporated by reference. Respondent failed to accept the Recommended Decision within ten days of receipt. Therefore, the EDD has reviewed the Recommended Decision and enters the following:

1. The Department ADOPTS the Findings of Fact,
2. The Department ADOPTS the Conclusions of Law,
3. The Department ADOPTS the Recommended Order, and
4. The Department ORDERS that Charles David Roth-Gonzalez’s Arizona insurance producer license, National Producer Number 19303198, is revoked, effective immediately.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Respondent may request a rehearing or review with respect to this Order by filing a written motion with the Department within 30 days after the date of this Order, setting forth the basis for relief under

1 Arizona Administrative Code R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not
2 necessary to request a rehearing before filing an appeal to the Superior Court.

3 Respondent may appeal the final decision of the Department to the Superior Court of
4 Maricopa County for judicial review, pursuant to A.R.S. § 20-166. A party filing an appeal
5 must notify the Office of Administrative Hearings of the appeal within ten days after filing
6 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

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8 DATED and EFFECTIVE this 14th day of February, 2024.

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Barbara D. Richardson

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Barbara D. Richardson

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Cabinet Executive Officer

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Executive Deputy Director

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Arizona Department of Insurance and Financial Institutions

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1 **ORIGINAL** of the foregoing filed electronically
this 14 day of February, 2024, to:

2 Amy M. Haley, Administrative Law Judge
3 <https://portal.azoah.com/submission>
4 Office of Administrative Hearings

5 **COPY** of the foregoing delivered the same date, to:

6 Deian Ousounov, Chief Financial Deputy Director
7 Alena Caravetta, Regulatory Legal Affairs Officer
8 Ana Starcevic, Paralegal Project Specialist
9 Steven Fromholtz, Licensing Division Manager
10 Aqueelah Currie, Licensing Supervisor
11 Linda Lutz, Legal Assistant
12 Rachel Smith, Investigator/Insurance Analyst
13 Arizona Department of Insurance and Financial Institutions
14 100 North 15th Avenue, Suite 261
15 Phoenix, Arizona 85007

16 **COPY** mailed the same date by U.S First Class and
17 Certified Mail, Return Receipt Requested, to:

18 Charles David Roth-Gonzalez
19 532 W. Windsor Ave.
20 Phoenix, AZ 85003
21 *Respondent* 9489 0090 0027 6486 6591 96

22 Charles David Roth-Gonzalez
23 P.O. Box 40431
24 Phoenix, AZ 85067-0431
25 *Respondent* 9489 0090 0027 6486 6592 02

26 **COPY** sent via electronic mail
this same date to:

27 Charles David Roth-Gonzalez
28 David.rothgonzo@icloud.com
29 *Respondent*

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James Rolstead, Assistant Attorney General

James.Rolstead@azag.gov

AdminLaw@azag.gov

Attorney for the Department

Ana Starcevic

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 23A-084-INS

ROTH-GONZALEZ, CHARLES DAVID
(National Producer No. 19303198)

**ADMINISTRATIVE LAW JUDGE
DECISION**

Respondent

HEARING: January 23, 2024

APPEARANCES: Assistant Attorney General James Rolstead represented the Arizona Department of Insurance and Financial Institutions. Respondent Charles David Roth-Gonzalez failed to appear. Rachel Smith appeared as a witness.

ADMINISTRATIVE LAW JUDGE: Amy M. Haley

EXHIBITS ADMITTED INTO EVIDENCE: The Department's Exhibits 1 through 13 were admitted.

FINDINGS OF FACT

1. Charles David Roth-Gonzalez ("Respondent") was at all material times licensed in the State of Arizona as an Insurance Producer, National Producer License Number 19303198, with lines of authority in casualty insurance and property insurance.¹ The Arizona Department of Insurance and Financial Institutions ("Department") issued Respondent's license on October 3, 2019.² The license expired on September 30, 2023.³ The Department retains jurisdiction because the investigation was open at the time of the license expiration.⁴

2. On June 26, 2023, Carly Garzella (Garzella) submitted a complaint to the Department against former employee, Respondent, alleging that Respondent misappropriated David Lagat's (Lagat) insurance premium payment by issuing an invoice, on company letterhead with Respondent's spouse's name (Christopher Gonzalez)⁵ and

¹ See Department's Exhibit 1.

² *Id.*

³ *Id.*

⁴ A.R.S. § 20-295(H).

⁵ Department's Exhibit 4 contains an email exchange between Respondent and Lagat regarding the subject "premium" payment. In that exchange, Respondent advised Lagat that the "name needs to be of our

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account information, to client David Lagat (Lagat) in the amount of \$11,745.03 on January 11, 2023. Lagat then paid that invoice on January 12, 2023. Garzella discovered the misappropriation of funds when Lagat's policy was cancelled for non-payment.⁶

3. On July 19, 2023, Insurance Analyst Investigator Rachel Smith (Smith) called Respondent and spoke with him regarding the allegations. Smith then sent an email to Respondent memorializing the conversation.⁷

4. On July 31, 2023, Respondent sent an email to Smith stating, in part, "I do not have access to any wire receipts from David Lagat as there is no wire from him or any of his companies that are discoverable. The only wire in January [2023] is from United HealthCare. . . . The statements will be sent today from the financial service."⁸

5. The Department did not receive any statements from Respondent.

6. On September 1, 2023, the Department issued a Subpoena Duces Tecum to Respondent requiring that he appear and produce specified documents, including bank statements for his spouse's OneAZ account for the months of January and February 2023.⁹

7. On September 26, 2023, the Department sent Respondent an email following up on the Examination Under Oath (EUO) held with him earlier that day, and requested that he provide the "January and February 2023 bank statements for Christopher Gonzalez's OneAZ bank account ending in 2078, preferably via a secure link directly from your financial institution."¹⁰

8. Not having received the bank statements from Respondent, the Department issued a Subpoena Duces Tecum to OneAZ on October 4, 2023 requesting information related to Christopher Gonzalez's OneAZ bank account ending in 2078 for the months of January and February 2023.¹¹

controller" when referring to whom the wire should be directed. Christopher Gonzalez was not, in fact, the controller, but rather Respondent's spouse.

⁶ See Department's Exhibit 2. Respondent was terminated from the Garzella Group in April 2023 for issuing a false binder to a different client.

⁷ See Department's Exhibit 7.

⁸ See Department's Exhibit 8.

⁹ See Department's Exhibit 9.

¹⁰ See Department's Exhibit 10.

¹¹ See Department's Exhibit 11.

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9. OneAZ provided the requested documents, including a wire transfer invoice dated January 12, 2023, and a bank statement ending on January 31, 2023. Both documents reflected Lagat's wire transfer and its delivery into Christopher Gonzalez's bank account.¹²

10. On January 19, 2024, Respondent issued a correspondence to the Office of Administrative Hearings and to the Department stating that he did not plan to attend the hearing and would "no longer hold or attempt to hold a license in the state of Arizona or anywhere else." Respondent did not appear at the hearing. Therefore, Respondent did not present any evidence to refute or rebut the evidence presented by the Department.

CONCLUSIONS OF LAW

1. This matter is a disciplinary proceeding wherein the Department must prove by a preponderance of the evidence that Respondent violated the State's Insurance Laws.¹³

2. A.R.S. § 20-295 provides, in pertinent part, as follows:

A. The director may deny, suspend for not more than twelve months, revoke or refuse to renew an insurance producer's license or may impose a civil penalty in accordance with subsection F of this section or any combination of actions for any one or more of the following causes:

.....

2. Violating any provision of this title or any rule, subpoena or order of the director.

.....

4. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business.

.....

8. Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

¹² See Department's Exhibit 12 and 13.

¹³ See A.A.C. R2-19-119.

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.....
H. The director shall retain the authority to enforce this title and impose any penalty or remedy authorized by this title against any person who is under investigation for or charged with a violation of this title even if the person's license has been surrendered or has lapsed by operation of law.

3. Respondent's conduct, as described above, constitutes violating any provision of this title or any rule, subpoena, or order of the director, within the meaning of A.R.S. § 20-295(A)(2).

4. Respondent's conduct, as described above, constitutes improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business, within the meaning of A.R.S. § 20-295(A)(4).

5. Respondent's conduct, as described above, constitutes using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere, within the meaning of A.R.S. § 20-295(A)(8).

6. Grounds exist for the Director of the Department to suspend, revoke, or refuse to renew the License pursuant to A.R.S. § 20-295(H) and A.R.S. § 20-295(A).

7. Further, Respondent's failure to respond to the Department's requests and failure to appear at the hearing demonstrate that Respondent is not able to be regulated at this time.

ORDER

Based upon the above, Respondent's National Producer License Number 19303198 shall be revoked on the effective date of the Order entered in this matter.

Pursuant to A.R.S. § 41-1092.08(I), the licensee may accept the Administrative Law Judge Decision by advising the Office of Administrative Hearings in writing not more than ten (10) days after receiving the decision. If the licensee accepts the Administrative Law Judge Decision, the decision shall be certified as the final decision by the Office of Administrative Hearings.

In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order will be forty (40) days from the date of that certification.

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Done this day, January 30, 2024.

/s/ Amy M. Haley
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile to:

Barbara D. Richardson,
Department of Insurance and Financial Institutions - Insurance

By: OAH Staff