

2. Sometime during 1991, Respondent originated a program to assist college students obtain loans and scholarships. The program developed by Respondent included assisting the student with completion of financial aid applications. Associated with those services, Respondent asked for payment of \$400.00 or the students could purchase universal life insurance with a face value of \$50,000.00.

3. Respondent advertised his services by creating flyers in the approximate size of 4 $\frac{1}{4}$ by 5 $\frac{1}{2}$ inches, printed on bright green or yellow paper and the flyers were placed by Respondent in kiosks at Arizona State University, Scottsdale Community College, Mesa Community College and South Mountain Community College.

4. The flyers that Respondent created contained bold print offering "Student Loans" and in smaller print "Scholarships" "qualify up to \$11,500/year". The flyers contained Respondent's telephone number and, at the bottom of the flyer, Respondent's name appears as the "Professional Manager" of "The Business Group" which offered "business and Personal Investment Planning".

5. Respondent also took out advertising in the Mesa Tribune for such loans and scholarships.

6. When students responded to his advertising, Respondent scheduled an appointment and, at the appointment, Respondent made a presentation to the student in which he informed the student that he, Respondent, would assist the student by completing applications for financial aid, which

applications would be directed to either Citibank or Valley National Bank and, that as part of the program, the student would be obligated to pay Respondent the sum of \$400.00 for his services or buy a universal life insurance policy which had monthly premiums of \$33.00 and which premium payments would continue for between 12 and 20 months. Students who accepted Respondent's program signed an agreement that Respondent prepared, which Agreement reads in part: "You are offered our services regarding STUDENT LOANS, SCHOLARSHIPS, and ACT, etc. Part of our our (sic) program recommends a financial plan where you have protection and a long term savings as discussed with you and which you will have time to review in detail at your leisure. Usually the above plan is \$33 per month for about 12-20 months minimum; however, if you prefer an alternative to the plan presented, you have the alternative to pay me \$400.00 professional fee and disregard the financial plan referred to above. You should realize by now that we are a professional organization working with others to give you the best of what we have to provide".

7. Students who called in response to Respondent's advertising for scholarships were offered a book of private scholarships and grants, which book was offered to the student for \$18.00. Respondent did not make any other efforts to secure scholarships for any student who replied to his advertising.

8. Of the students who replied to Respondent's advertising for student loans, thirty students signed the Agreement Respondent had prepared and all of the students accepted the universal life insurance policy written by North West Life Insurance Company.

9. Some time after Respondent solicited students for his program, the Office of the Attorney General began an investigation into Respondent's practices and, after its investigation was completed, an action was filed against Respondent.

10. Following a jury trial in February 1993, a verdict was rendered against Respondent, which verdict was later reduced to a Court judgment on June 2, 1993. The judgment concluded that Respondent violated ARS, §44-1522 A. through acts constituting false, misleading or deceptive acts and practices and which acts were willful acts or practices in violation of such statute.

11. The Department learned of the Court judgment and instituted a complaint against Respondent. Hearing was then set for November 23, 1993 at which time Respondent appeared.

CONCLUSIONS OF LAW

1. This matter is within the jurisdiction of the Director of the Arizona Department of Insurance pursuant to the provisions of Arizona Revised Statutes §20-101 et. seq.

and the regulations promulgated thereunder.

2. Respondent's actions in connection with his participation in a program to solicit students for loan assistance and the sale of universal life insurance, whereby Respondent committed acts which were found to be false, misleading and deceptive and which acts Respondent was found to have committed willfully in violation of ARS, §44-1522 A., constitute a record of dishonesty in business or financial matters, in violation of ARS, §20-290 B. (2).

3. Respondent's violation of ARS, §20-290 B. (2) constitutes grounds on which the original license or any renewal of license could have been refused such that Respondent's license may be suspended or revoked pursuant to ARS, §20-316 A. (1) and §20-290 B. (2).

DECISION

It is the decision of the undersigned that the life and disability agent license issued to Frank G. Ochoa be revoked.

To date, Respondent does not recognize the fraudulent nature of the acts he committed by inveigling college students to purchase insurance under the pretense of assisting them with obtaining loans. The very nature of the advertising is suspect and, when coupled with the actual course of conduct in which Respondent engaged, it is obvious that the

judgment rendered against Respondent is ample evidence of his record of dishonesty in business and financial matters.

Despite Respondent's pretense of eleemosynary intent, the method whereby he could beguile students to come to his office was solely mercenary. Those financially needy students who were looking for assistance were presented with an outline, the contours of which required that a student either pay a large amount for Respondent's services or that they purchase insurance from which Respondent would receive compensation by the insurer.

Under either scenario, Respondent was derelict in his responsibilities as an insurance agent. Students were not informed about the entire scope of their insurance policy or the fact that any savings which would accrue to them required a lengthy holding period. At most, the policy illustration that Respondent presented showed that the student would be protected with a death benefit.

Since the students went to Respondent for the express purpose of obtaining money for their education, one must wonder if the death benefit offered by Respondent was an incentive to the students or whether the insurance policy was merely a scheme whereby Respondent would be compensated for providing his expertise to the students.

The supposed expertise offered by Respondent was merely the convenience of submitting a financial application to a lending institution on a student's behalf. Respondent

himself did not possess any special knowledge about student financial assistance, he was not making any loans himself and, at most, he offered an accelerated determination from a bank as to whether a student could qualify for assistance. For that service, Respondent earned a commission from the sale of insurance to approximately 30 students.

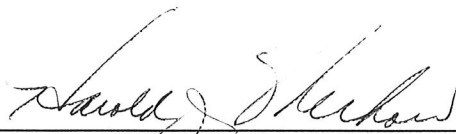
The proof of the lack of true help to the students was amply pointed out during the hearing by showing that Respondent did not provide any service to a student seeking scholarships except to try to sell them an \$18.00 book. The insurance Respondent sold to the students had no payback in terms of savings as evidenced by Joanne Bradley's experience whereby, after paying premiums for two years, she obtained no cash value when she stopped making premium payments. Respondent's illustration of a cash value accumulation equal to the amounts of premium paid over a five year period is ludicrous in light of the commission earned by Respondent and the interest rate environment in which any savings return was sought.

The judgment rendered against Respondent is more than supported by Respondent's own description of his practices. Despite the lack of counsel's assistance during his jury trial, there is nothing more than rank speculation to support his argument that he would have been found innocent if he had an attorney supporting him.

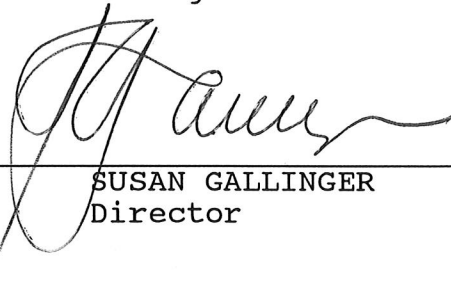
Because a consumer fraud judgment was entered against

Respondent and, because Respondent's own testimony supported the fraudulent conduct, Respondent has shown that he has a record of dishonesty in business and financial matters such as to justify the revocation of his insurance license. It is the recommended decision of the undersigned therefore that Respondent's agent license be revoked.

DATED this 14th day of December 1993.



HAROLD J. MERKOW
Hearing Officer



SUSAN GALLINGER
Director

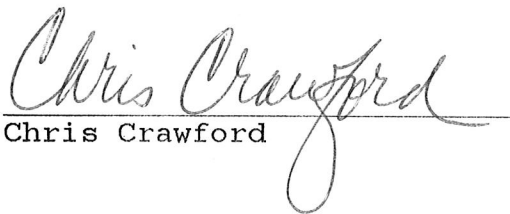
COPY of the foregoing mailed/delivered
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