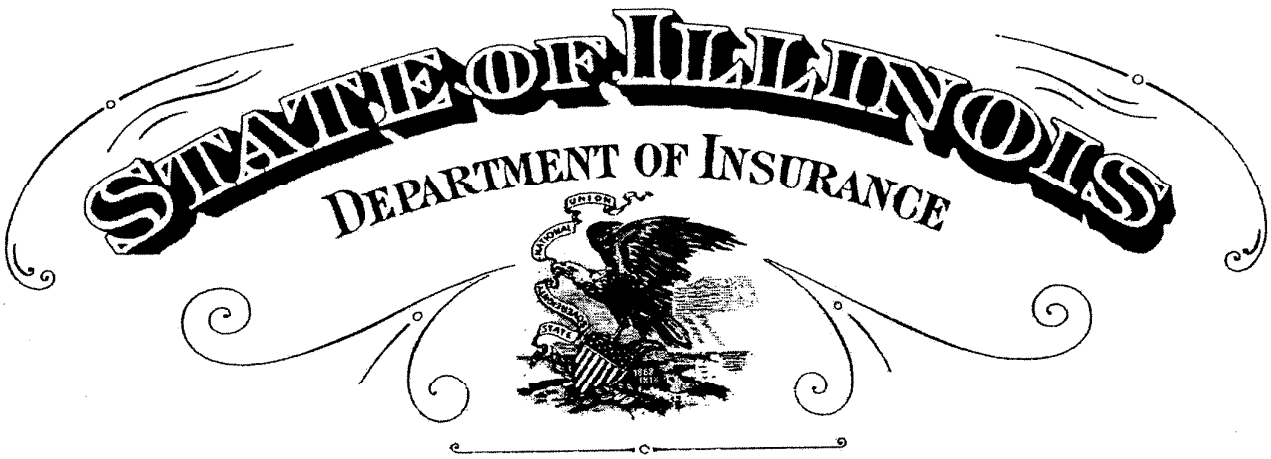


IN THE MATTER OF THE REVOCATION OF LICENSING AUTHORITY OF:	)	Hearing No. 4024
Jay A. Jensen R.R. #1 Box 116 Downs, Illinois 61736	)	

ORDER

I, Arnold Dutcher, Acting Director of Insurance for the State of Illinois, hereby certify that I have read the Summary of Proceedings, Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, James C. Rundblom, heretofore appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a hearing into the above-captioned matter, and that I have carefully considered the Summary of Proceedings, Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer.

I, Arnold Dutcher, Acting Director of Insurance for the State of Illinois, being fully advised in the premises, do hereby adopt said Summary of Proceedings, Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon the same, enter the following Order under the authority granted me by Article XXIV of the Illinois Insurance Code (215 ILCS 5/401 et. seq.) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et. seq.).

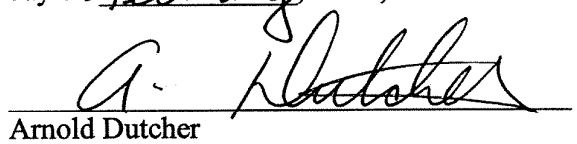
This Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5ILCS 100/1-1 et. seq.). Further, this Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 5/3-101 et. seq.).

NOW IT IS THEREFORE ORDERED THAT:

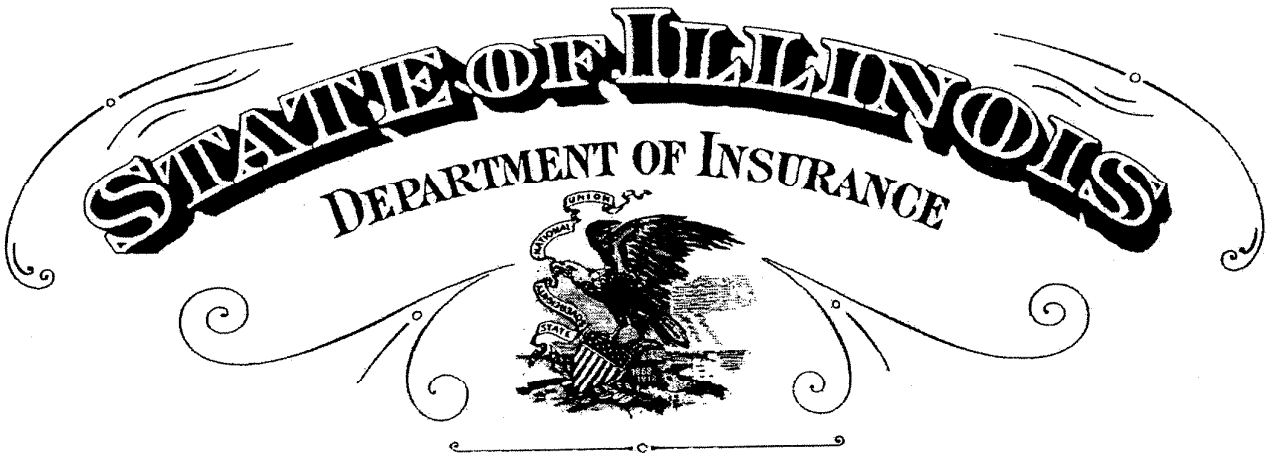
1) The Illinois Producer's License of the Respondent, Jay A. Jensen is revoked.

2) The Respondent, Jay A. Jensen, shall pay as costs to this proceeding, within 30 days of the date of this order, the sum of $252.50 directly to the Illinois Department of Insurance, Tax and Fiscal Services Section, 320 W. Washington, Springfield, Illinois 62767.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Official Seal of the Department of Insurance in the City of Springfield, State of Illinois, this 28th day of February, A. D., 2003



Arnold Dutcher
Acting Director



IN THE MATTER OF THE REVOCATION OF LICENSING AUTHORITY OF:	)	Hearing No. 4024
Jay A. Jensen R.R. #1 Box 116 Downs, Illinois 61736	)	

SUMMARY OF PROCEEDINGS, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS OF THE HEARING OFFICER

NOW COMES James C. Rundblom, Hearing Officer in the above-captioned matter, and based upon the record of this proceeding offers his Summary of Proceedings, Findings of Fact, Conclusions of Law and Recommendations to the Acting Director of Insurance.

SUMMARY OF PROCEEDINGS

1) On October 2, 2002, the Illinois Acting Director of Insurance, Arnold Dutcher (Director), issued an Order of Revocation revoking the Illinois Insurance Producers License of Jay A. Jensen (Respondent) (Exhibit A of Hearing Officer Exhibit B).

2) On October 22, 2002, the Illinois Department of Insurance received a letter from the Respondent requesting a hearing regarding the revocation (Exhibit B of Hearing Officer Exhibit B).

3) On November 18, 2002, the Director issued a Notice of Hearing in connection with the Respondent's request for hearing, setting a hearing for December 18, 2002, to be held at the Department's Offices in Springfield, Illinois (Hearing Officer Exhibit B).

4) Eve M. Blackwell-Lewis filed her appearance in this matter as counsel for the Department (Hearing Officer Exhibit B).

5) James C. Rundblom was duly appointed as Hearing Officer in this matter on November 18, 2002 (Hearing Officer Exhibit A).

6) The Respondent Received the Notice of Hearing in this matter at his address on November 21, 2002 (Hearing Officer Exhibit C).

7) On December 6, 2002, the Department received a letter from the Respondent. The letter requested an extension of the hearing date in that the Respondent was in the process of obtaining an attorney in the Springfield area (Hearing Officer Exhibit D).

8) On December 16, 2002, the Hearing Officer issued an Order rescheduling the hearing to December 16, 2002 (Hearing Officer Exhibit E).

9) On January 3, 2003, the Department received a Motion To Continue and an Entry Of Appearance from Attorney Jay A. Jensen (Hearing Officer Exhibit G).

10) On January 6, 2003, the Hearing Officer issued an Order rescheduling the hearing to January 28, 2002 (Hearing Officer Exhibit F).

11) The Hearing in this matter commenced on January 28, 2003, at the Department's Springfield, Illinois offices. In attendance were James C. Rundblom, Hearing Officer; Eve M. Blackwell-Lewis, attorney for the Department, Bonnie Ribble, a witness for the Department, Charles J. Northrup and Jeffery R. Jurgens, attorneys for the Respondent, Jay A. Jensen, the Respondent, and Kim Jensen, the Respondent's wife (Tr. 1&2).

12) The purpose of the hearing was to determine the eligibility of the Respondent to retain his Illinois Insurance Producer License, and whether the Director's Order of Revocation should stand.

FINDINGS OF FACT

1) Bonnie E. Ribble, a Staff Investigator for the Department testified on behalf of the Department in this matter as follows:

a) She has been employed by the Department for four years and five months, and is a Staff Examiner for the Department. She conducts financial exams on agencies and agents, and investigates for violations of the Insurance Code (Tr. 13).

b) She was assigned a file containing the Respondent's producer license renewal application. Ribble testified that the Respondent marked yes to the felony disclosure question in the application and had included various court documents concerning the conviction with the application, but the documents were not certified as required by the directions in the application, and he did not report his felony conviction to the Department within 30 days after entry of the date of judgment as required by Section 500-95 of the Illinois Insurance Code (Tr. 13-18).

c) The court documents she had received from the Respondent showed that he had plead guilty to insurance fraud, and was ordered to pay restitution of $107,699.76, sentenced to five months (home detention) with two years of supervised release (Tr. 19-20).

d) The documents disclosed that the Respondent entered a voluntary plea of guilty to Count 1 of the indictment, and that the fraud involved a conspiracy whereby insurance checks were passed through the Respondent's businesses. The documents also showed that the Respondent acknowledged that restitution in the amount of $107,699.76 was owed to Glenbrook Life and Annuity Company. Additionally, Ribble ordered and received certified documents from the Circuit Court (Department Ex. 3&3A) that confirmed the information that she had received from the Respondent (Tr. 21-24).

e) The indictment Ribble received from the Circuit Court disclosed that there were eight defendants, and 24 counts of criminal misconduct. The indictment was entered on June 19, 2001 (Tr. 24).

2) On Cross-examination Witness Ribble testified as follows:

a) The Department had renewed the Respondent's producer license because the renewal application was received before the renewal date, and the normal procedure in such instance is for the Department to renew the license notwithstanding the fact that the felony box had been checked (Tr. 26-27).

b) She did not remember how many of the 24 counts in the indictment applied to the Respondent (Tr. 27).

c) She also did not recall whether she had ever communicated with the Respondent during her investigation, and that her report was based upon her review of the court documents (Tr. 28).

d) Her report was reviewed by her supervisor and several layers of management before it was approved. The process can take from a few days to a few weeks (Tr. 28-29).

3) The Respondent, Jay A. Jensen, testified on his own behalf in this matter as follows:

a) He is married, and has two young children. His wife is a homemaker and he is the primary means of financial support for his family (Tr 31).

b) He had a notable high school record at Bloomington High School involving both academics and athletics and had achieved the designation of Eagle Scout (Tr. 30-32).

c) He attended Illinois State University on a wrestling scholarship and received an accounting degree in 1991. He passed the CPA exam during that same year (Tr. 32-33).

d) After college he had worked for a public accounting firm in Bloomington doing auditing and tax work for two years before taking a position as a manager with The Equitable, an insurance financial company. He was never disciplined by nor received a poor employee review

from either company, and he still assists the public accounting firm in their audits of grain elevators (Tr. 34-35)

e) In 1999 he left The Equitable and started Jensen Financial Advisors (Tr. 36-37). The new business does a lot of estate planning. It has six employees, collects about $80,000 a year in life premiums, but is primarily involved in corporate tax strategies and tax planning. It also has about 800 securities clients, and 500 insurance clients (Tr. 37-39).

f) His professional licenses include a CPA, RIA, and the NASD Series 6, 7, and 24. He also has a Series 63 from the State of Illinois. None of the licenses has ever been restricted, revoked, suspended or put on probation. However, he has been put on heightened supervision. Heightened supervision involves the review of numerous personal and business financial records by the broker dealer (Tr.40-43).

g) The Respondent claims that he notified both his broker dealer and a person with the State of Illinois Insurance Department who told him that notification was not necessary until 30 days after final disposition. He was unable to provide the name of the person he contacted at the Department (Tr. 42, 45-46).

h) He obtained his producer license in October of 1992, and has never been subject to disciplinary action (Tr. 44).

e) The Respondent did not provide the Department with certified copies of the court proceedings as required by the renewal application due to an oversight (Tr.46).

f) The Respondent claimed that a recent audit of his business disclosed no issues other than a signage change, but it is unclear from the record who conducted the audit (Tr. 48-49).

g) According to the Respondent the felony conviction involved a guilty plea the Respondent made in connection with a partnership known as J&B Management. Beginning in 1994, the partnership had a campus video store and tanning salon known as Video Nutz where the Respondent characterized his involvement as a silent partner who took no active role in the business. The business was marginally profitable, and beginning in 1996 was managed by an acquaintance of the Respondent's from high school (Tr. 49-52).

h) The Respondent was not acquainted with the codefendants other than the store manager (Tr. 52-53).

i) The fraud involved a scheme whereby an employee (or former employee) of Glenbrook Life Insurance Company accessed the company's computers to print unauthorized commission checks that were cashed through the video store or made out directly to the partnership or the video store (Tr. 53-54).

j) In October of 1997, the Respondent became aware that something was wrong when he reviewed the bank records. The Respondent confronted the manager, but did not investigate the transactions or report them to the authorities. Instead, he fired the manager and

gave him the suspect funds that were in the account. Six months later the Respondent was questioned by the FBI, and he told them what he knew. To prove his lack of involvement the Respondent then taped a private conversation, where the former manager unwittingly disclosed the details of the fraud, and delivered the tape to the prosecutor's office (Tr. 55-57).

k) After a new U.S. Attorney was appointed in 2001 the Respondent was indicted despite his cooperation with the previous prosecutor. He subsequently plead guilty and was sentenced to 90 days at work camp, 90 days of supervised release and two years of probation. The Respondent was also required to pay $107,000.00 of restitution, joint and several, that he has not yet paid as he is filing an appeal (Tr. 58-60).

l) He also testified that the video store has since been sold, he had never had a relationship with Glenbrook Life, the matters charged did not involve his clients or financial service business, and that none of the fraudulent checks were ever made payable to him or deposited into his personal bank accounts. He further indicated that to ensure that such a situation would not happen again he now does his own books (Tr. 61-62).

m) The Respondent testified that he organized various community service projects including an annual golf outing for the Children's Foundation and a kid's wrestling club. He also stated that during the last few years he did pro bono securities audits for the Postal Inspector in the Central District of Illinois, the IRS Criminal Investigation Unit and the Illinois State Police. Additionally, he also is on the Illinois Board for Kids Wrestling (Tr. 64-67).

4. The Respondent, Jay A. Jenson, testified on cross examination as follows:

a) That he was one of two owners of Video Nutz, the restitution was joint with three other co-defendants, and that he had no idea whether the other defendants had made any payments (Tr. 69).

b) He also spent some time narrating the process by which he entered his plea agreement (Tr. 69-71).

5. The Respondent, Jay A. Jenson, testified on redirect examination as follows:

a) He stands ready to make restitution if required by the Appellate Court (Tr. 72).

b) He is not appealing the underlying plea of guilty (Tr. 72).

c) He understands he made a mistake, takes responsibility for it, and is not trying to avoid responsibility (Tr. 72).

CONCLUSIONS OF LAW

Based upon the above-stated Findings of Fact, the Hearing Officer offers the following Conclusions of Law to the Director of Insurance:

1. The Director of Insurance has Jurisdiction over the subject matter and the parties to this proceeding pursuant to Sections 401, 402, 403 and 500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403 and 5/500-70).

2. James C. Rundblom was duly appointed as Hearing Officer in this matter pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402).

3. The purpose of the Hearing was to determine the eligibility of the Respondent to hold an Illinois Insurance Producer License, and to determine whether the Director's Order of Revocation revoking the license should stand.

4. Section 500-70(a)(6) of the Illinois Insurance Code provides in part, as follows:

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(6) having been convicted of a felony

The undisputed evidence presented in this matter by the Department shows that on April 16, 2002, the Respondent plead guilty to the felony of Insurance Fraud under 18 USC Sec. 1033(b). There is little evidence of mitigating circumstances other than the Respondent's own testimony which does not square with the admissions in Paragraph 5 of the Plea Agreement submitted to the Department by the Respondent, and entered into evidence as part of Department Ex. 2. Moreover, the Respondent has not paid any of the $107,699.76 restitution ordered by the United States District Court, and is appealing that part of the sentence.

In view of the above, the Hearing Officer concludes that the Respondent has not shown sufficient cause to vacate the revocation, or replace it with an alternative sanction.

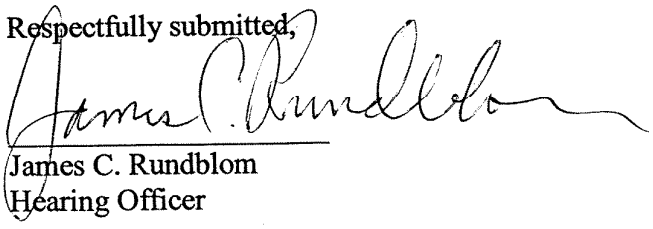
RECOMMENDATIONS

Based upon the forgoing Findings of Fact and Conclusions of Law the Hearing Officer offers the following Recommendations to the Director of Insurance:

1) That the revocation of the Respondent's Illinois Insurance Producer license be sustained.

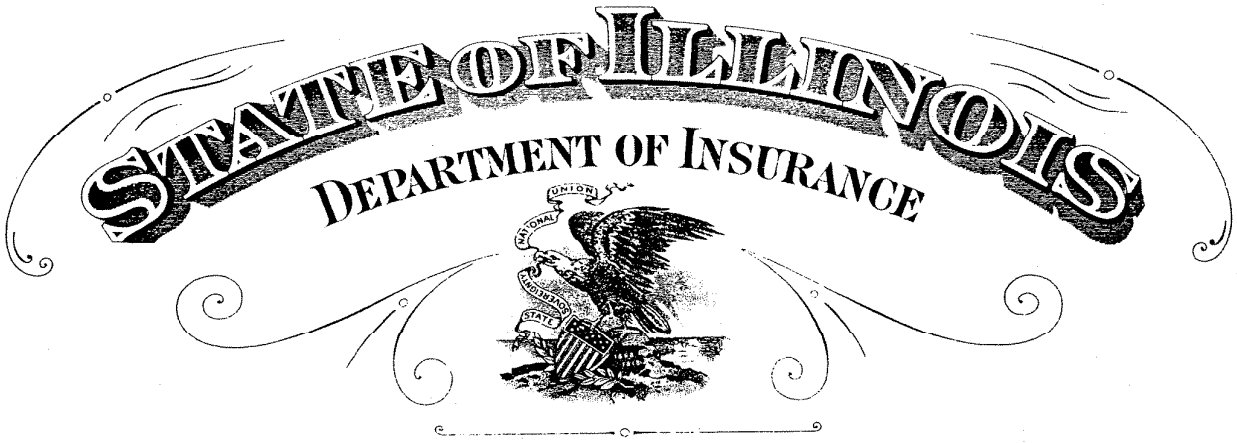
2) That the Respondent be ordered to pay $252.50 in court reporter costs for this proceeding.

Respectfully submitted,



February 21, 2003

James C. Rundblom
Hearing Officer



IN THE MATTER OF THE
REVOCATION OF LICENSING
AUTHORITY OF:

Jay A. Jensen
R. R. #1 Box 116
Downs, Illinois 61736

ORDER OF REVOCATON

I, Nathaniel S. Shapo, Director of Insurance of the State of Illinois, hereby revoke the license of Jay A. Jensen (Licensee) to take effect 30 days from the date of mailing of this Order pursuant to Section 500-70 of the Illinois Insurance Code (215 ILCS 5/500-70).

Based upon an investigation and review of the Licensee by the Producer Section of the Illinois Department of Insurance, the Department alleges that:

On March 26, 2002, the Licensee entered a plea of guilty to the charge of Insurance Fraud and was sentenced in the United States District Court, Northern District of Illinois, Eastern Division, Case Number 01 CR 565-5.

Therefore, by the above action, the Licensee been convicted of a felony which is a ground for revocation pursuant to Section 500-70(a)(6) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(6)).

This Order of Revocation shall take effect 30 days from the date of mailing but shall be stayed if within the 30-day period a written request for hearing is filed with the Director. Any correspondence concerning this Order of Revocation shall be addressed to the Department of Insurance, Producer Section, 320 West Washington Street, Springfield, Illinois 62767-0001.

50 Ill. Adm. Code 2402 governs hearings before the Department of Insurance. Section 408(5)(a) of the Illinois Insurance Code (215 ILCS 5/408) and 50 Ill. Adm. Code 2402.270(d) provide that the costs of a hearing may be assessed against the parties.

IN WITNESS WHEREOF, I have hereunto Subscribed my name and affixed the Official Seal of the Department of Insurance in the City of Springfield, State of Illinois, this 2ND day of October, A.D., 2002.

Nathaniel S. Shapo, Director

NS:br543