



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

5 DATED this 31<sup>st</sup> of May, 2006

6   
7 \_\_\_\_\_  
8 CHRISTINA URIAS  
9 Director of Insurance

9 A copy of the foregoing mailed  
10 this 1<sup>st</sup> day of June, 2006

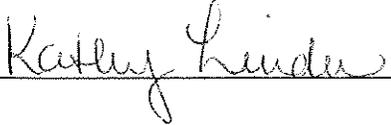
10 Mary Kosinski, Executive Assistant for Regulatory Affairs ✓  
11 Catherine O'Neil, Consumer Legal Affairs Officer  
12 Steve Fromholtz, Producer Licensing Administrator  
13 Arizona Department of Insurance  
14 2910 N. 44th Street, Suite 210  
15 Phoenix, AZ 85018

14 Office of Administrative Hearings  
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23 Pasco, WA 99302

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**IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

In The Matter Of An Appeal By:

**No. 06A-058-INS**

STEVEN P. HOOK

**ADMINISTRATIVE LAW JUDGE  
DECISION**

Petitioner,

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**HEARING:** May 25, 2006

**APPEARANCES:** The Petitioner appeared by telephone in his own behalf.  
Moira McCarthy, Assistant Attorney General, appeared for the Arizona  
Department of Insurance

**ADMINISTRATIVE LAW JUDGE:** Allen Reed

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**Findings of Fact**

1. On January 24, 2006, the Arizona Department of Insurance (Department) received the Petitioner's electronic application for a Non Resident Property and Casualty Insurance Producer's License.
2. The Petitioner has been a licensed insurance agent in the State of Washington since June of 1995. He has worked for Conover Insurance (Conover), for approximately two years.
3. The application for the non resident Arizona license had been submitted for the Petitioner by Cristin Wellner (Wellner), a fellow employee at Conover.
4. Two of the questions on the application ask if the applicant was ever been convicted of a crime and whether the applicant was ever involved in an administrative proceeding regarding any professional or occupational license? Both questions were answered with a "No".
5. The electronic application system performs an insurance industry background check of the applicant as part of the application process. The system discovered

1 that the Petitioner had a California non resident insurance license which was  
2 revoked in May, 2005.<sup>1</sup>

- 3 6. On January 27, 2006, the Department sent the Petitioner a Notice of  
4 Deficiencies which requested an explanation, documentation, and resolution of  
5 the California revocation.
- 6 7. In response, the Petitioner provided information that showed he had been  
7 convicted of two misdemeanors, Malicious Mischief and Harassment, and a  
8 felony , Possession of Stolen Property 1<sup>st</sup> Degree, in King County Washington  
9 Superior Court, in 1994.
- 10 8. The Petitioner had not disclosed the convictions to California when applying for  
11 his license in 2004. Subsequently, California learned of the convictions and  
12 summarily revoked the Petitioner's non resident license for conviction of a felony  
13 and non disclosure of the conviction.
- 14 9. On March 9, 2006, the Department denied the Petitioner's application and the  
15 Petitioner requested a hearing.
- 16 10. At the hearing the Petitioner and the Condover Director for Corporate Licensing  
17 and Compliance, Patrice Hughes (Hughes), testified that the Petitioner's  
18 application was improperly sent to the Department because Wellner should not  
19 have submitted it to the Department. The application was to have gone to  
20 Hughes before submission to the Department. Hughes would have provided the  
21 correct information regarding the license revocation and criminal convictions.  
22 The Petitioner's Exhibit A is an e-mail which requests Wellner to "... contact  
23 Patrice Hughes (X2510) regarding the additional paper work for my license  
24 application".
- 25 11. The Petitioner testified he had not disclosed his criminal background in his  
26 California application because he thought it was not required because of the  
27 passage of time.<sup>2</sup>

28  
29 <sup>1</sup> Under the provisions of 18 U.S.C. §§ 1033-1034; 10C.C.R. § 2157, 2176.3 and by Order Granting  
30 Consent To Engage In The Business Of Insurance dated October 6, 2005, the Petitioner is again allowed  
to transact business in California.

<sup>2</sup> More than seven years, the Petitioner had no explanation for how he came to that conclusion.

1 12. With respect to the felony Possession of Stolen Property conviction, the  
2 evidence shows that it involved two couples' property including two sets of golf  
3 clubs which were stolen from an Alaska Airlines flight at the Seattle Tacoma  
4 Airport on March 4, 1994. The Petitioner worked for Alaska Airlines unloading  
5 baggage from the plane which carried the golf clubs and other property. On  
6 March 7, 1994, the Petitioner sold nine of the stolen golf clubs to a second hand  
7 sporting goods store. On March 13, 1994, the male owner of one of the sets of  
8 the stolen clubs went to the second hand store and discovered three of his  
9 stolen clubs. The other owner of a stolen set of clubs, a woman, went to the  
10 store and identified three of her clubs. On March 22, 1994, the Petitioner sold the  
11 man's stolen golf bag to the second hand store for \$10.00. Police executed a  
12 search warrant at the Petitioner's home and found a Bowie knife, binoculars, golf  
13 shoes which belonged to the male golfer, the woman's golf bag, and a bag with  
14 undergarments (including women's) identified by one of the couples on the  
15 Alaska Air flight<sup>3</sup>.

16 13. The Petitioner testified at the hearing that he had not stolen the items but bought  
17 them from someone he did not know.

### 18 **Conclusions of Law**

19 The Notice of Hearing lists violations of A.R.S. §20-295(A)(1), incorrect,  
20 incomplete, misleading, materially untrue information in the license application;  
21 (A)(3), attempting to obtain a license through misrepresentation or fraud; (A)(6), a  
22 felony conviction; (A)(8), dishonest practices or untrustworthiness in the conduct of  
23 business; and (A)(9), having an insurer's producer's license revoked in another state  
24 as reasons for denial of the Petitioner's application.

25 A.R.S. §41-1092.07(G) places the burden of persuasion on the Petitioner.

26 1. The violation of (A)(1) is established. The statute does not distinguish between  
27 knowingly, negligently, or mistakenly failing to provide correct and complete  
28 information. The Applicant's intent or reason for submitting incomplete and  
29

30 <sup>3</sup> The police also found a decorated wooden bat from Mexico which one of the couples claimed was theirs. The Petitioner asserted he had bought it in Mexico.

1 incorrect application would be considered when making a final decision in the  
2 case. In this instance, the evidence indicates the application was improperly  
3 completed and submitted by mistake although it is puzzling why Hughes could  
4 not have handled the application without Wellner's involvement. The e-mail  
5 supports the testimony of Hughes and the Petitioner.

- 6 2. To the extent that the violation of (A)(1) is determined to be a mistake rather than  
7 intentional falsification, no violation of (A)(3) is found. This is because the terms  
8 fraud and misrepresentation generally imply a knowing falsehood or  
9 misrepresentation. In this case there was insufficient evidence that the  
10 application was submitted with a conscious intent not to disclose the revocation  
11 and criminal conviction information in order to obtain the license.
- 12 3. The violation of (A)(8) is proven for the following reasons. The Petitioner is not  
13 considered trustworthy because his denial of having stolen the golf clubs and  
14 related items in 1994 is not deemed credible. The Petitioner claims he bought  
15 the items from an unknown person. It is established that the luggage in question  
16 went on the plane in Los Angeles for the flight to Seattle-Tacoma Airport. It is  
17 established that the Petitioner's baggage team unloaded the plane at Seattle-  
18 Tacoma and the stolen items never made their way to the passengers in the  
19 baggage claim area. The most reasonable conclusion is that someone on the  
20 baggage team stole the items. Even if it was not the Petitioner, it is unlikely that  
21 it was a person unknown to the Petitioner from whom the Petitioner purportedly  
22 purchased the items. Other reasons the Petitioner's version is not accepted are  
23 that the Petitioner claims he bought the stolen items but then resold some of  
24 them just three days after the theft. This would mean the Petitioner fortuitously  
25 made contact with an unknown person who somehow obtained the stolen items  
26 from someone on the baggage team and the Petitioner resold the clubs, all  
27 within three days of the theft<sup>4</sup>. The Petitioner sold one of the golf bags valued at  
28 \$110.00 for \$10.00 which implies the Petitioner would have paid something less  
29

30 <sup>4</sup> This coincidental circumstance occurred in the greater Seattle-Tacoma area with a population in the millions.

1 than \$10.00 for the bag if he intended to make a profit. During the hearing, the  
2 Petitioner was not forthcoming and perceptibly<sup>5</sup> evasive regarding questions  
3 about the stolen property transaction. The items found in the Petitioner's home  
4 certainly do not support the Petitioner's version (the coincidence of the decorated  
5 bat from Mexico, why did the Petitioner buy a woman's golf bag or stolen  
6 undergarments?). Applying reason and common sense to the evidence  
7 contradicts the Petitioner's version of the events and shows he did not testify  
8 truthfully. This shows he is not trustworthy in the conduct of business (an  
9 application for a license is clearly conducting business as contemplated by the  
10 statute).

- 11 4. Violations of (A)(6) and (A)(9) are also established and require no additional  
12 discussion.
- 13 5. The Petitioner has the burden of proof that the Department decision is in error  
14 under the law and/or the facts. For the reasons stated, the Petitioner has failed  
15 to meet that burden.

#### 16 **Recommended Order**

17 It is recommended the Department denial of the Petitioner's Non Resident  
18 Property and Casualty Insurance Producer's License, be affirmed.

19  
20 Done this day, May 25, 2006.



21  
22 Allen Reed  
Administrative Law Judge

23 Original transmitted by mail this

24 30 day of May, 2006, to:  
25

26 Christina Urias, Director  
27 Department of Insurance  
28 2910 North 44th Street, Ste. 210  
Phoenix, AZ 85018

29 By Chris Fishled

30 <sup>5</sup> Even over the telephone.