

APR 15 2008

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF ARIZONA

DEPT OF INSURANCE
BY *CB*

DEPARTMENT OF INSURANCE

In the Matter of:
THOMAS ALBERT RICHARD
(License number 895699),

Respondent.

No. 08A-036-INS
PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On March 19, 2008, the Arizona Department of Insurance ("Department") issued a Notice of Hearing ("Notice") in the above-captioned matter, a copy of which is attached and incorporated by this reference. The Notice required Thomas Albert Richard ("Richard" or "Respondent") to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to file an answer. On April 9, 2008, counsel for the Department filed a Request for Default and Proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's request. Pursuant to A.A.C.R20-6-106(D), a party that fails to file an answer within the time provided shall be deemed to be in default and one or more of the allegations in the Notice of Hearing may be deemed to be admitted.

FINDINGS OF FACT

1. Notice was proper.
2. Respondent is in default.
3. The allegations in the Notice are deemed admitted.

///

CONCLUSIONS OF LAW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. The conduct alleged in the Notice constitutes grounds for the Director to suspend, revoke or refuse to renew Respondent's license to transact insurance in Arizona, pursuant to A.R.S. §20-295(A).

ORDER

IT IS ORDERED:

1. The insurance license held by Respondent is revoked effective upon the issuance of this Order.
2. The hearing set for April 23, 2008 at 9:00 a.m. shall be vacated.

DATED this 14th day of April, 2008.

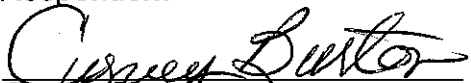

CHRISTINA URIAS, Director
Arizona Department of Insurance

COPY of the foregoing mailed this 15th day of April, 2008 to:

Lewis Kowal, Administrative Law Judge
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

Steven Fromholtz, Licensing Supervisor
Mary Butterfield, Assistant Director
Catherine O'Neil, Legal Affairs
Mary Kosinski, Executive Assistant for Regulatory Affairs
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

Thomas Albert Richard
14873 W. Country Gables Dr.
Surprise, Arizona 85379
Respondent


Curvey Burton

MAR 19 2008

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY 

In the Matter of:)
)
THOMAS ALBERT RICHARD)
(License number 895699))
)
Respondent)
)
)

Docket No. 08A-036-INS
NOTICE OF HEARING
(Administrative Law Judge
Lewis Kowal)

PLEASE TAKE NOTICE that the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director") or her duly designated representative on **April 23, 2008, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 85007¹.**

If you wish to continue this hearing to another date, you must file a motion in writing with the Office of Administrative Hearings not less than **15** days before the scheduled hearing date. Please send it to the attention of the Administrative Law Judge ("ALJ") and include the docket number listed above. You must also mail or hand-deliver a copy of any motion to continue to the Department of Insurance on the same date you file it with the Office of Administrative Hearings.

You are not required to have an attorney represent you. However, if you are represented, your attorney must be licensed to practice law in the State of Arizona. An insurance company may be represented by a corporate officer. A.R.S. § 20-161(B).

You are entitled to be present during the giving of all evidence and you will have a reasonable opportunity to inspect all documentary evidence, examine witnesses, present evidence that supports your case and to request that the ALJ issue subpoenas to compel the attendance of witnesses and production of evidence. A.R.S. §20-164(B).

¹As authorized under Arizona Revised Statutes ("A.R.S.") §§20-161 through and including 20-165 and Title 41, Chapter 6, Article 10 (A.R.S. § 41-1092 *et seq.*).

1 A clear and accurate record of the proceedings will be made either by a court reporter
2 or by electronic means. A.R.S. §41-1092.07(E). If you want a copy of an electronic recording,
3 you must contact the Office of Administrative Hearings at (602) 542-9826. If the hearing was
4 transcribed by a court reporter and you want a copy of the transcript, you must pay the cost of
5 the transcript to the court reporter or other transcriber

6 If you have questions concerning this Notice of Hearing please direct them to Mary
7 Kosinski, Arizona Department of Insurance, (602) 364-3471, 2910 North 44th Street, Suite 210,
8 Phoenix, Arizona 85018.

9 **NOTICE OF APPLICABLE RULES**

10 On January 23, 1992, we adopted the rules of practice and procedure applicable in
11 contested cases before the Director of Insurance. The hearing will be conducted pursuant to
12 these rules. A.A.C. R20-6-101 through R20-6-115.

13 YOU MUST FILE A WRITTEN RESPONSE (ANSWER) TO THE ALLEGATIONS IN
14 THIS NOTICE WITH US WITHIN **20 DAYS** AFTER WE ISSUE THIS NOTICE. A.A.C.
15 R20-6-106. YOUR RESPONSE SHOULD STATE YOUR POSITION OR DEFENSE AND
16 SHOULD SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE. IF YOU
17 DO NOT SPECIFICALLY DENY AN ASSERTION, WE WILL CONSIDER IT ADMITTED. ANY
18 DEFENSE YOU DO NOT RAISE WILL BE CONSIDERED WAIVED.

19 IF YOU DO NOT FILE YOUR RESPONSE ON TIME, WE WILL CONSIDER YOU IN
20 DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS IN THE NOTICE AS
21 TRUE. ACCORDINGLY, WE WILL TAKE WHATEVER ACTION IS APPROPRIATE
22 INCLUDING SUSPENSION, REVOCATION, IMPOSITION OF A CIVIL PENALTY AND
23 ORDERING RESTITUTION TO ANY INJURED PERSON.

PERSONS WITH DISABILITIES

PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR
ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS
SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE THE
ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE

1 OFFICE OF ADMINISTRATIVE HEARINGS AT (602) 542-9826.

2 The allegations supporting this Notice of Hearing are as follows:

3 1. Thomas Albert Richard ("Respondent") is, and was at all material times licensed
4 as a resident accident/health and life producer, Arizona license number 895699 which expires
5 November 30, 2010.

6 2. Respondent's mailing, business and residence addresses of record with the
7 Department are: c/o Bankers Life and Casualty, 5651 W. Talavi Blvd., Ste. 140, Glendale,
8 Arizona 85306 (business); 14873 W. Country Gables Dr., Surprise, Arizona 85379
9 (residence).

10 3. On or about July 9, 2007, the Department issued to Respondent an insurance
11 license as a resident accident/health and life producer, Arizona license number 895699.

12 4. On September 28, 2007, the Department notified Respondent by mail at his
13 business address of record that his fingerprint card had been processed and returned by the
14 Federal Bureau of Investigation ("FBI") as illegible. The Department requested a replacement
15 set of fingerprints along with a completed "Illegible Fingerprint Replacement Form" on or
16 before November 2, 2007.

17 5. On December 20, 2007, the Department sent a second letter to Respondent at
18 his business address of record, return receipt requested, notifying him that he had fifteen (15)
19 days to submit a full set of fingerprints to the Department. The Department also sent a copy of
20 the letter to Respondent's residence address of record.

21 6. The Post Office returned the signed green card for the December 20, 2007 letter
22 to Respondent's business address of record. On or about January 4, 2008, the Department
23 received a letter written by Kelly Johnson of Bankers Life and Casualty stating that Thomas
Richard no longer worked for that company.

7. To date, Respondent has not submitted a full set of fingerprints to the
Department.

...

...

1 **VIOLATIONS**

2 8. Respondent's conduct as described above constitutes the violation of the
3 requirement that an applicant submit a full set of fingerprints to the Department within the
4 meaning of A.R.S. § 20-285(F)(2).

5 9. Respondent's conduct as described above constitutes providing incomplete
6 information in the license application within the meaning of A.R.S. § 20-295(A)(1).

7 10. Respondent's conduct as described above constitutes the violation of any
8 provision of A.R.S. Title 20 or any rule, subpoena or order of the director within the meaning of
9 A.R.S. §20-295(A)(2).

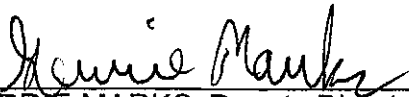
10 11. Grounds exist for the Director to suspend, revoke, or refuse to renew
11 Respondent's insurance license, impose a civil penalty and/or order restitution pursuant to
12 A.R.S. §§20-295(A) and (F).

13 WHEREFORE, if after hearing, the Director finds the grounds alleged above, the
14 Director may deny, suspend, or revoke Respondent's insurance producer's license. A.R.S. §
15 20-295 (A).

16 The Director delegates the authority vested in her to the Director of the Office of
17 Administrative Hearings or his designee to preside over the hearing of this matter as the
18 Administrative Law Judge, to make written recommendations to the Director consisting of
19 proposed findings of fact, proposed conclusions of law, and a proposed order. This delegation
20 does not include delegation of the authority of the Director to make an order on the hearing or
21 any other final decision in this matter. A.R.S. § 20-150.

22 The Office of Administrative Hearings is an independent agency. A.R.S §41-1092.01.
23 Please find enclosed a copy of the procedures to be followed. Further hearing information
may also be found at the Office of Administrative Hearings website: www.azaoh.com.

DATED this 14th day of March, 2008.



GERRIE MARKS, Deputy Director
Arizona Department of Insurance

1 COPIES of the foregoing mailed/delivered,
return receipt requested,
2 this 19th day of March, 2008, to:

3 ~~Thomas Albert Richard~~
14873 W. Country Gables Dr.
4 Surprise, Arizona 85379
Respondent

5 COPIES of the foregoing mailed/delivered
6 this 19th day of March, 2008, to:

7 Mary E. Kosinski, Exec. Assistant for Regulatory Affairs
Mary Butterfield, Assistant Director
8 Catherine M. O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Licensing Supervisor
9 Department of Insurance
2910 North 44th Street, Suite 210
10 Phoenix, Arizona 85018

11 Lewis Kowal
Administrative Law Judge
12 Office of Administrative Hearings
1400 West Washington, Suite 101
13 Phoenix, Arizona 885007

14 
15 Curvey Walters Burton

7006 2150 0004 4520 8390



PLEASE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS FOLD ON DOTTED LINE
CERTIFIED MAIL