

STATE OF ARIZONA  
FILED

FEB 17 2016

STATE OF ARIZONA DEPT OF INSURANCE  
DEPARTMENT OF INSURANCE BY MS

In the Matter of:

**HOFFMAN, HOLDEN NOAH**  
(Arizona License No. 1108100)  
(National Producer No. 17553098)

**No. 15A-145-INS**

**ORDER**

Respondent.

On February 1, 2016, the Office of Administrative Hearings, through Administrative Law Judge Diane Mihalsky, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on February 1, 2016, a copy of which is attached and incorporated by this reference. The Interim Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:


1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director revokes the Arizona resident insurance producer license, No. 1108100, of **Holden Noah Hoffman** effective immediately.

**NOTIFICATION OF RIGHTS**

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing with respect to this order by filing a written motion with the Interim Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

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

5 DATED this 12<sup>th</sup> day of February, 2016.

6  
7   
8 Leslie R. Hess, Interim Director  
Arizona Department of Insurance

9 COPY of the foregoing mailed this  
10 17<sup>th</sup> day of February, 2016 to:

11 Holden Noah Hoffman  
12 5133 E. Juana Ct.  
13 Cave Creek, AZ 85331  
Respondent

14 Holden Noah Hoffman  
15 Appreciation Financial  
16 11811 N. Tatum Blvd., Ste. 3031  
Phoenix, AZ 85028  
Respondent

17 Mary Kosinski, Executive Assistant for Regulatory Affairs  
18 Catherine O'Neil, Consumer Legal Affairs Officer  
19 Steven Fromholtz, Licensing Director  
Arizona Department of Insurance  
20 2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018

21 Liane Kido  
22 Assistant Attorney General  
1275 West Washington Street  
Phoenix, Arizona 85007-2926

23 Office of Administrative Hearings  
24 1400 West Washington, Suite 101  
Phoenix, Arizona 85007

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26 Maidene Scheiner

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

RECEIVED

FEB 11 2016

In the Matter of:

HOLDEN NOAH HOFFMAN  
(Arizona License #1108100)

Respondent

No. 15A-145-INS

ARIZONA DEPT. OF INSURANCE  
ADMINISTRATIVE SERVICES

ADMINISTRATIVE LAW JUDGE

DECISION

**HEARING:** January 26, 2016, at 1:00 p.m.

**APPEARANCES:** The Arizona Department of Insurance ("the Department") was represented by Liane Kido, Esq., Assistant Attorney General; Holden Noah Hoffman ("Respondent") failed to appear.

**ADMINISTRATIVE LAW JUDGE:** Diane Mihalsky

**FINDINGS OF FACT**

1. On or about April 7, 2015, Respondent applied for an insurance license.<sup>1</sup> Respondent submitted a fingerprint card with the application.
2. The Department issued license number 1108100 to Respondent ("the License"). The License was active on the date of the hearing.<sup>2</sup>
3. Steven Fromholtz, Producer Licensing Administrator of the Licensing Section of the Department, testified that when the Department receives an application for a license and fingerprint card, the Department forwards the fingerprint card to to the Arizona Department of Public Safety ("DPS") for processing, which includes processing by the Federal Bureau of Investigation for a criminal history background check to be conducted.
4. Mr. Fromholtz testified that although the application is not complete until the Department receives the results of the criminal background check, the Department issues the license based on the information contained in the application until the

<sup>1</sup> See the Department's Exhibit 1.

<sup>2</sup> See the Department's Exhibit 2.

1 Department can confirm the information in the application with the results of the  
2 criminal background check.

3 5. On June 12, 2015, the Department issued a letter to Respondent by mail to  
4 his address of record, informing him that the fingerprint card that he submitted with the  
5 application was illegible and had been returned by DPS.<sup>3</sup> The Department requested  
6 that Respondent submit a replacement set of fingerprints on or before July 13, 2015.

7 6. Mr. Fromholtz testified that the Department's policy is to send two letters to  
8 licensees. After the Department did not receive a response to its first letter, on July 31,  
9 2015, the Department sent a second letter to Respondent at an alternative address of  
10 record requesting that he submit a full set of fingerprints on or before August 24, 2015,  
11 and informing him that if he failed to do so, the Department would take disciplinary  
12 action against his License.<sup>4</sup>

13 7. On December 22, 2015, the Department issued a Notice of Hearing that an  
14 evidentiary hearing would be held at the Office of Administrative Hearings ("the OAH"),  
15 an independent state agency, on January 26, 2016, at 1:00 p.m. The Department sent  
16 the Notice of Hearing to Respondent at address of record and to the alternative  
17 address.

18 8. The Department appeared for the duly noticed hearing, presented Mr.  
19 Fromholtz' testimony, and submitted four exhibits.

20 9. Respondent did not request to appear telephonically and did not request  
21 that the hearing be continued. Although the start of the duly noticed hearing was  
22 delayed more than fifteen minutes to allow Respondent additional travel time,  
23 Respondent did not appear, personally or through an attorney, and did not contact the  
24 OAH to request that the start of the hearing be further delayed. Consequently,  
25 Respondent did not present any evidence to defend his license.

26 10. Mr. Fromholtz testified that to date, Respondent had not responded to any  
27 of the Department's letters and had not submitted to the Department a legible set of  
28 fingerprints.

29 \_\_\_\_\_  
30 <sup>3</sup> See the Department's Exhibit 3.

<sup>4</sup> See the Department's Exhibit 4.

**CONCLUSIONS OF LAW**

1           1. This matter lies within the Department's jurisdiction.<sup>5</sup>

2           2. The Notices of Hearing that the Department mailed to Respondent at his  
3 address of record and at an alternative address were reasonable. A.R.S. § 20-  
4 286(C)(1) required Respondent to notify the Department within 30 days of any change  
5 in his residential or business address. Respondent is deemed to have received notice  
6 of the hearing.<sup>6</sup>

7           3. The Department bears the burden of proof to establish cause to discipline  
8 Respondent's License by a preponderance of the evidence.<sup>7</sup> "A preponderance of the  
9 evidence is such proof as convinces the trier of fact that the contention is more  
10 probably true than not."<sup>8</sup>

11           4. During the application process, pursuant to statute, the Department required  
12 Respondent to submit a full set of fingerprints. Respondent's illegible fingerprint  
13 submission did not satisfy the requirement set forth in A.R.S. § 20-285(E)(2).

14           5. Respondent thereby failed to submit a complete application, in violation of  
15 A.R.S. § 20-295(A)(1).

16           6. Respondent's conduct, as set forth above, constitutes the violation of any  
17 provision of A.R.S., Title 20, or any rule, subpoena, or order of the Department within  
18 the meaning of A.R.S. § 20-295(A)(2).

19           7. Grounds exist for the Director of the Department to suspend, revoke, or  
20 refuse to renew the License pursuant to A.R.S. § 20-295(A) and (F). Respondent's  
21 failures to respond to the Department's letters or to appear at the hearing indicate that  
22 at this time, he cannot be regulated.

**ORDER**

23           Based upon the above, Respondent's License shall be revoked on the effective  
24 date of the Order entered in this matter.

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28 <sup>5</sup> See A.R.S. §§ 20-281 to 20-301.

29 <sup>6</sup> See A.R.S. §§ 41-1092.04; 41-1092.05(D).

30 <sup>7</sup> See A.R.S. § 41-1092.07(G)(1); A.A.C. R2-19-119; *see also Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

<sup>8</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

1                    *In the event of certification of the Administrative Law Judge Decision by the*  
2 *Director of the Office of Administrative Hearings, the effective date of the Order will be*  
3 *five days from the date of that certification.*

4                    Done this day, February 1, 2016.

5     */s/ Diane Mihalsky*  
6     Administrative Law Judge

7 Transmitted electronically to:

8                    Andy Tobin, Director  
9                    Arizona Department of Insurance  
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