

DEC 9 2016

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY MS

In the Matter of:

HOCHHALTER, KEVIN
(Arizona License No. 1141495)
(National Producer No. 17882340)

No. 16A-092-INS

ORDER

Respondent.

On November 23, 2016, the Office of Administrative Hearings, through Administrative Law Judge Velva Moses-Thompson, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on November 23, 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:

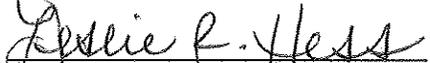
1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director revokes the Arizona resident insurance producer license, No. 1141495, of **Kevin Hochhalter** effective immediately.

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 28th day of November, 2016.

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

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10 COPY of the foregoing mailed this
2nd day of December 2016 to:

11 Kevin Hochhalter
12 855 North Dobson Road, #1025
13 Chandler, AZ 85224
Respondent

14 Mary Kosinski, Regulatory Legal Affairs Officer
15 Catherine O'Neil, Consumer Legal Affairs Officer
16 Steven Fromholtz, Assistant Director – Consumer Protection Division
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

17 Liane Kido
18 Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

19
20 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

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22 
23 Maidene Scheiner

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NOV 23 2016

DEPT. OF INSURANCE

BY: MEK

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 16A-092-INS

Hochhalter, Kevin
(Arizona License # 1141495,
(National Producer # 17882340),

ADMINISTRATIVE LAW JUDGE
DECISION

Respondent.

HEARING: November 3, 2016

APPEARANCES: Liane C. Kido, Esq. appeared on behalf of the Arizona
Department of Insurance. Respondent did not appear.

ADMINISTRATIVE LAW JUDGE: Velva Moses-Thompson

FINDINGS OF FACT

1. On September 23, 2016, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 1:00 p.m. on November 3, 2016.
2. No representative for Respondent Kevin Hochhalter appeared at the scheduled time and the matter was convened in his absence at about 1:20 p.m.
3. On March 14, 2016, Respondent submitted to the Department an application for a resident accident/health insurance producer's license. With the application, Respondent included a copy of his fingerprints.
4. The Department issued to Respondent License No. 1141495, which is scheduled to expire on July 31, 2019.
5. The Department forwarded Respondent's fingerprints the Arizona Department of Public Safety ("DPS") for a criminal records background check. Respondent's fingerprints were not of sufficient quality for use in conducting the background check.
6. An applicant who submits illegible fingerprints is considered by the Department to have submitted an incomplete application.

1 7. In a letter dated May 6, 2016, the Department informed Respondent that on or
2 before June 6, 2016, he was required to submit to the Department a replacement set of
3 fingerprints.

4 8. The Department did not receive from Respondent any response to its May 6,
5 2016 letter.

6 9. In a letter dated June 10, 2016, the Department informed Respondent that it was
7 preparing to initiate an administrative action against his license because he had failed to
8 submit a full set of fingerprints.

9 10. The Department's June 10, 2016 letter also informed Respondent that on or
10 before June 30, 2016, he was required to submit the replacement set of fingerprints, or
11 in the alternative, he could surrender his license.

12 11. Respondent did not submit a replacement set of fingerprints and he did not
13 surrendered his license.

14 12. The Department requested that Respondent's license be revoked.

15 CONCLUSIONS OF LAW

16 1. The Department bears the burden of persuasion. ARIZ. REV. STAT. § 41-
17 1092.07(G)(2).

18 2. The standard of proof on all issues is that of a preponderance of the evidence.
19 Ariz. Admin. Code § R2-19-119.

20 3. A preponderance of the evidence is:

21 The greater weight of the evidence, not necessarily established
22 by the greater number of witnesses testifying to a fact but by
23 evidence that has the most convincing force; superior
24 evidentiary weight that, though not sufficient to free the mind
25 wholly from all reasonable doubt, is still sufficient to incline a fair
26 and impartial mind to one side of the issue rather than the other.
27 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

28 4. With his application, Respondent was required to submit to the Department a
29 complete set of fingerprints. Respondent's submission of fingerprints did not satisfy this
30 requirement because the quality was not sufficient for DPS's use in conducting the
required background check. See ARIZ. REV. STAT. § 20-285(E)(2).

5. Because Respondent did not submit fingerprints of sufficient quality, his
application is incomplete, which is a violation of ARIZ. REV. STAT. section 20-295(A)(1).

1 6. Respondent's conduct constitutes a violation of ARIZ. REV. STAT., Title 20, which
2 provides grounds for the Director of the Department to revoke Respondent's license.
3 ARIZ. REV. STAT. § 20-295(A)(2).

4 **RECOMMENDED ORDER**

5 **IT IS ORDERED** that Respondent Kevin Hochhalter's License No. 1141495 is
6 revoked.

7 Done this day, November 23, 2016.

8 /s/ Velva Moses-Thompson
9 Administrative Law Judge

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11 Transmitted electronically to:

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13 Leslie R. Hess, Interim Director
14 Arizona Department of Insurance
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