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STATE OF ARIZONA
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DEPT. OF INSURANCE
BY Kath

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of: **MICHAEL SCOTT AZRAK** Respondent.	)))))))	No. 98A-164-INS **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

On October 21, 1998, the Arizona Department of Insurance (the "Department") issued a Notice of Hearing ("Notice") in this matter, a copy of which is attached and incorporated herein by this reference. The Notice required Michael Scott Azrak ("Respondent") to provide written answers 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 November 17, 1998, 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. Michael Scott Azrak is in default.
3. The allegations in the Notice of Hearing are deemed admitted.

CONCLUSIONS OF LAW

The conduct alleged in the Notice of Hearing constitutes grounds for the Director to suspend, revoke or refuse to renew Mr. Azrak's license to transact insurance in Arizona, within the meaning of A.R.S. § 20-316(A).

ORDER

IT IS ORDERED:

1. All insurance licenses held by Michael Scott Azrak are revoked effective upon the issuance of this Order.

2. The hearing set for December 1, 1998 is vacated.

DATED this 19th day of November, 1998.

CHARLES R. COHEN, Director
Arizona Department of Insurance

: 36383

COPY of the foregoing mailed
this 19 day of November, 1998, to:

Lewis D. Kowal, Administrative Law Judge
Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007

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LICENSING SECTION

Gerrie L. Marks, Executive Assistant for Regulatory Affairs
John D. Gagne, Assistant Director
Scott Greenberg, Business Administrator
Catherine O'Neil, Consumer Affairs Legal Officer
Maureen Catalioto, Licensing Supervisor
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1711 South Extension #2030
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Michael Scott Azrak
1655 East Southern Avenue, #57
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Michael Scott Azrak
616 South Beeline Highway #202
Payson, Arizona 85541

Randy Niles
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Kathy Lender

: 36383

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Advocacy Section
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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:	No. 98A-164-INS
MICHAEL SCOTT AZRAK,	**NOTICE OF HEARING**
Respondent.	

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165, 41-1061 through and including 41-1066 and 41-1092.02, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director"), or his duly designated representative, on the 1st day of December, 1998, at 9:00 a.m. at Office of Administrative Hearings, 1700 West Washington Street, Capitol Tower, West Wing, Suite 602, Phoenix, Arizona 85007 (the "Hearing").

Motions to continue this matter shall be made in writing to the Administrative Law Judge not less than five (5) business days prior to the date set for the hearing. A copy of any motions to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. § 20-164(B) entitles any person affected by this Hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present supporting evidence and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, if Respondent is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. § 20-161(B).

Pursuant to A.R.S. § 41-1092.07(D), a clear and accurate record of the proceedings will be made by a court reporter or by electronic means. Any party that requires a transcript of the proceedings shall pay the cost of the transcript to the court reporter or other transcriber.

Questions concerning issues raised in this Notice of Hearing should be directed to Assistant Attorney General Shelby L. Cuevas (602) 542-3702, 1275 West Washington, Phoenix, Arizona 85007.

NOTICE OF APPLICABLE RULES

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

PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN ANSWER WITHIN 20 DAY AFTER ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR DENIAL OF RENEWAL OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER RESTITUTION TO ANY PARTY INJURED.

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 OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

The allegations supporting this Notice of Hearing are as follows:

1. Respondent Michael Scott Azrak ("Azrak") is currently, and at all times material was, licensed as life and disability insurance agent (License No. 44454).

2. On or about October 1, 1996, Azrak filed an original application for a life and disability insurance agent's license with the Department (the "1996 Application").

3. Section F, of the 1996 Application asks:

> Has there ever been any judgment, order or other determination against you in any criminal, civil, administrative or any judicial or quasi-judicial proceeding of any kind in any jurisdiction based on any of the following:
>
> a) misappropriation, conversion or the withholding of monies?
>
> c) a finding that you were dishonest in business or financial matters?
>
> d) fraud or misrepresentation?

4. Azrak answered "No" to the above questions on the 1996 Application.

5. On or about July 22, 1997, Azrak filed a renewal application for a life and disability insurance agent's license (the "1997 Application").

6. Section V, Question "B" of the 1997 application asks:

> B. Have you had any professional vocational, business license or certification refused, denied, suspended, revoked or restricted, or a fine imposed by any public authorities that has not previously been disclosed by you to this agency in a license application?

7. Section V Question "D" of the 1997 application asks:

> D. have you had any judgment, order or other determination, including any criminal conviction issued or made against you in any criminal, civil, administrative or other judicial or quasi-judicial proceeding of any kind in any jurisdiction that has not previously been disclosed by you to this agency in a license application based on any of the following:
>
> (1) Misappropriation, conversion or the withholding of moneys?
>
> (2) Incompetence or a source of injury and/or loss to anyone?
>
> (3) Dishonesty in business or financial matters?

(4) Fraud or misrepresentation?

8. Azrak answered "No" to the above questions on the 1997 Application.

9. On or about April 28, 1994, the Oregon Department of Consumer and Business Services, Division of Finance and Corporate Securities, Securities Section ("Oregon Securities Section"), entered a cease and desist order, In the Matter of Michael Scott Azrak, Docket No. 0-94-0016, Order to Cease and Desist Order Denying Exemptions Order Imposing Civil Penalty Notice of Right to Hearing ("Order to Cease and Desist"). In its Order to Cease and Desist, the Oregon Securities Section found that Azrak, a licensed securities salesman in Oregon, offered and sold unregistered securities and offered and sold gold stock and Boise Cascade Corporation stock, using the money obtained from the sales for personal benefit, in violation of ORS 59-015(17), 59.055, 59.135(1), (2) and (3).

10. In its Order to Cease and Desist, the Oregon Securities Section found that Azrak sold or offered for sale unlicensed securities in a co-op real estate pool to co-worker Bradley E. Tate ("Tate"), and used the money from the sale to finance a real estate class/seminar for his own personal benefit. Tate purchased the unlicensed securities from Azrak with two checks in the amounts of $1,000 and $500. Azrak obtained $1500 from Tate under false pretenses.

11. In its Order to Cease and Desist, the Oregon Securities Section further found that Azrak sold or offered for sale gold stock and Boise Cascade Corporation stock to co-worker Myrna Gilbert ("Gilbert"), and used the money from the sale for personal benefit without notifying Gilbert of the use of the money. Gilbert purchased the stock from Azrak for the amount of $1,000. Gilbert never received stock certificates for the stock she purchased. Seven months later, Azrak returned Gilbert's $1,000 investment.

12. In its Order to Cease and Desist, the Oregon Securities Section ordered Azrak cease and desist from transacting business in the State of Oregon in violation of ORS 59.055 and 59.135(1), (2) and (3) and violating any of the provisions of ORS Chapter 59. The Director of the

Oregon Securities Section denied Azrak the use of any exemption as provided in ORS 59.025 and 59.035 and imposed civil penalties against Azrak for a total $2,500.

13. Azrak failed to disclose, on his 1996 Application and his 1997 Application, the Order to Cease and Desist and associated administrative penalty in the amount of $2,500 as described in the paragraphs above.

14. On or about June 21, 1994, the Oregon Securities Section entered a final order, In the Matter of Michael Scott Azrak, Docket No. 0-94-0016, Final Order by Default ("Final Order"). In its Final Order, the Oregon Securities Section found that Azrak sold or offered for sale unlicensed securities, gold stock and Boise Cascade stock, using the money for personal benefit, in violation of ORS 59.055; 59.135(1), (2) and (3), as described in Paragraphs 6, 7, 8 and 9 above. In its Final Order, the Oregon Securities Section ordered Azrak cease and desist from transacting business in the state of Oregon in violation of ORS 59.055, 59.135(1), (2) and (3) and to cease violating any provisions of ORS Chapter 59. The Director of the Oregon Securities Section ordered denying Azrak the use of any exemption as provided in ORS 59.025 and 59.035 and imposed civil penalties against Azrak for a total of $2,500.

15. In an April 30, 1998 letter sent to the Department, Azrak admitted that he intentionally did not disclose the Oregon Cease and Desist Order or Final Order and Default and associated administrative penalty within the 1996 and 1997 applications he filed with the Department.

16. Azrak's conduct alleged above constitutes the wilful misrepresentation of any fact required to be disclosed in any such application or accompanying statement within the meaning of A.R.S. § 20-291(G).

17. Azrak's conduct alleged above constitutes the wilful violation of, or wilful noncompliance with, any provision of Title 20, or any lawful rule, regulation or order of the director in violation of A.R.S. § 20-316(A)(2).

18. Azrak's conduct alleged above constitutes the existence of misrepresentation or fraud in obtaining or attempting to obtain any insurance license in violation to A.R.S. § 20-316(A)(3).

19. Grounds exists for the Director to suspend, revoke or refuse to renew Respondent's insurance licenses, impose a civil penalty upon them, and/or order restitution, pursuant to A.R.S. § 20-316(A) and (C).

WHEREFORE, if after hearing, the Director makes a finding of one or more of the above-described allegations, the Director may suspend, revoke or refuse to renew Respondent's insurance licenses, pursuant to A.R.S. § 20-316(A) and 20-316(C).

Pursuant to A.R.S. § 20-150, the Director of Insurance delegates the authority vested in the Director of Insurance of the State of Arizona, whether implied or expressed, to the Director of the Office of Administrative Hearings or his designee to preside over the hearing of this matter as the Administrative Law Judge, to make written recommendations to the Director of Insurance consisting of proposed findings of fact, proposed conclusions of law and a proposed order. The delegation does not include delegation of the authority of the Director of Insurance to make the order on hearing or other final decision in this matter.

Pursuant to A.R.S. § 41-1092.01, your hearing will be conducted through the Office of Administrative Hearings, an independent agency. Please find enclosed a copy of the procedures to be followed.

DATED this 21st day of October, 1998.

CHARLES R. COHEN, Acting Director
Arizona Department of Insurance

COPY of the foregoing mailed
this 21st day of October, 1998, to:

Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, AZ 85007

John Gagne, Assistant Director
Donna Futtrel, Investigator
Maureen Catalitoto, Supervisor
Department of Insurance
2910 North 44th Street, Suite 210
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Attorney for the Department

Michael Scott Azrak
1711 South Extension #2030
Mesa, Arizona 85210
Respondent

Michael Scott Azrak
1655 East Southern Avenue #57
Tempt, Arizona 85282
Respondent

A courtesy copy of this Notice of Hearing has been mailed/ delivered to the persons listed below. If you are listed below, you will receive no further notices or documents concerning this matter other than the director's final order. Information about the status of this matter, including whether the hearing date has been changed, may be obtained by contacting the Department of Insurance at (602) 912-8454 or the Assistant Attorney General identified above, at (602) 542-7722.

Midland National Life Insurance Company
P.O. box 809095
Dallas, Texas 75380-9095

Betty Bryant

19735 (CP-98-101)

Maureen C.

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LICENSING SECTION

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Attorneys for Arizona Department of Insurance

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:	)	No. 98A-164-INS
	)	
MICHAEL SCOTT AZRAK,	)	**REQUEST FOR DEFAULT AND PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER**
	)	
Respondent.	)	

The Arizona Department of Insurance ("Department"), by and through undersigned counsel, hereby requests that the Findings of Fact, Conclusions of Law and Order set forth in the Notice of Hearing and incorporated herein by this reference be entered in this matter, deeming Michael Scott Azrak ("Respondent") in default, deeming the allegations set forth in the Notice of Hearing as true, and ordering that the life and disability agent's license held by Respondent be revoked.

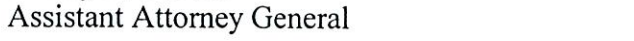
On October 21, 1998, a Notice of Hearing ("Notice") was issued in this matter, setting this matter for hearing on December 1, 1998. Respondent had twenty days from the date of the issuance of the Notice to file a written answer to the allegations contained therein. A.A.C. R20-6-106. As of the date of this Request, Respondent has not filed an Answer, nor has he appeared through counsel. A.A.C. R20-6-106(D) provides that if an answer is not timely filed, the Respondent shall be deemed in default and the proceedings may be determined against Respondent by the Director.

In its Notice, the Department alleges that Respondent intentionally did not disclose the existence of an Order to Cease and Desist and associated administrative penalty imposed against him by the Oregon Securities Section.

Based on the foregoing, the Department respectfully requests that the allegations set forth in the October 21, 1998 Notice of Hearing be deemed admitted and that the life and disability agent's license held by Mr. Azrak be revoked.

DATED this 17th day of November, 1998.

GRANT WOODS
Attorney General



Shelby L. Cuevas
Assistant Attorney General

ORIGINAL FILED this 17th day of November, 1998, with:

Charles R. Cohen, Director
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

COPY of the foregoing mailed/delivered this 17th day of November, 1998, to:

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