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The Revocation Proceedings under the Previous License

2. Until December 20, 1985, Mr. Brown held insurance license number 14978 (the "Previous License") to transact insurance in Arizona.

Mr. Brown's Address of Record Under the Previous License

3. On August 19, 1983, Mr. Brown reported the following address as his address of record to the Department on the application he filed to renew the life and disability agent license issued under the Previous License:

P.O. Box 26306
Phoenix, AZ 85068

4. From at least August 1983 through December 1985, Mr. Brown used the post office box identified in ¶3 as his address of record with the Department.

5. On April 24, 1984, when Mr. Brown filed an application to renew the property and casualty agent license issued under the Previous License, Mr. Brown erroneously gave the following address to the Department:

P.O. Box 26306
Phoenix, AZ 85260

Exhibit 8. Mr. Brown wrote the wrong zip code when he completed this renewal application rather than the correct zip code, 85068.

6. Mr. Brown never received mail nor did he ever have a post office box at the mailing address listed in ¶5 Further, 85260 is not a Phoenix zip code.

. . .
. . .
. . .

1 The Department Mailed Notice of the Proceedings Under
2 Docket No. 5887 to Mr. Brown at his Address of Record
3 Under the Previous License

4 7. On September 23, 1985, the Director issued a
5 Notice of Hearing to Mr. Brown under the Previous License. The
6 Notice alleged two separate charges that Mr. Brown had
7 misappropriated, converted, or withheld insurance premiums
8 received in connection with his actions as a licensed insurance
9 agent, in violation of A.R.S. §20-316. In the Matter of Michael
10 Steven Brown, Jr., Docket No. 5887 ("Docket No. 5887").

11 8. On October 17, 1985, the Department conducted a
12 hearing in Docket No. 5887. Mr. Brown did not appear for the
13 hearing. At the hearing, counsel for the Department presented
14 evidence and testimony from which the Director made findings of
15 fact and conclusions of law and entered an order that revoked the
16 Previous License.

17 9. On December 12, 1985, the Director issued an
18 Amended Order in Docket No. 5887 in which the Director found that
19 Mr. Brown misappropriated or converted to his own use money that
20 belonged to a policyholder in violation of A.R.S. §20-316.
21 Effective December 20, 1985, the Director revoked the Previous
22 License.

23 10. Arnold Sniegowski, a Department investigator,
24 testified that the Department's records reflected that the
25 Amended Order and the Notice of Hearing in Docket No. 5887 had
26 both been served upon Mr. Brown at the address of record
27 identified in ¶3. Mr. Sniegowski further testified that the
28 Department's records contained no evidence to show that these
documents had been returned without being delivered to Mr. Brown.

1 11. A licensee's address of record constitutes the
2 address through which the Department maintains contact with a
3 licensee. The Department has the right to rely on the accuracy
4 of the address information that a licensee provides. A licensee
5 has the responsibility to inform the Director of address changes.
6 A.R.S. §20-313. Notice mailed to a licensee's address of record
7 constitutes complete service.

8 12. Mr. Brown received notice of the proceedings and
9 the final order in Docket No. 5887. The Department effected
10 service of the required notice by mailing a copy of the Notice of
11 Hearing and the Amended Order in Docket No 5887 to Mr. Brown at
12 the address of record identified in ¶3.

13 The Issuance of License No. 11098

14 13. On October 2, 1992, Mr. Brown filed an application
15 for a property and casualty insurance agent license (the "P&C
16 Application") with the Department. The Director issued the
17 License. Mr. Brown filed an application to renew the property
18 and casualty insurance agent license on April 13, 1994.

19 14. On January 19, 1993, Mr. Brown filed an
20 application for a life and disability insurance agent license
21 (the "L&D Application") with the Department. The Director issued
22 the license. Mr. Brown filed an application to renew the life
23 and disability insurance agent license on April 26, 1993.

24 15. On page 26 of both the P&C Application and the L&D
25 Application, Mr. Brown was asked:

26 Have you ever been refused an insurance,
27 securities, or other license by a public
28 authority of any jurisdiction; and has any
such license, if issued to you, ever been
suspended or revoked?

1 Mr. Brown answered "No" to these questions on both the P&C
2 Application and the L&D Application, despite the fact that the
3 Director had ordered the revocation of the Previous License in
4 Docket No. 5887.

5 Mr. Brown's Defense to the Current Proceedings

6 16. Mr. Brown claims that on April 24, 1984, he
7 notified the Department that he intended to surrender the
8 Previous License and that his address of record had changed. To
9 support this claim, Mr. Brown produced a copy of a letter on the
10 day of the hearing that states in part:

11 Enclosed please find my original insurance
12 licenses. I am leaving the insurance industry on
13 the above date and am hereby surrendering my
license.

14 My address for the next 90 days will be 805
15 W. St. Johns, Phoenix, AZ 85023. I may be
should require any additional information.

16 Exhibit A (emphasis added). Mr. Brown also claims that he never
17 received notice of the proceedings under Docket No. 5887 or the
18 revocation of the Previous License in that matter.

19 17. The Department did not acknowledge, and Mr. Brown
20 did not receive an acknowledgment or other answer from the
21 Department in response to Exhibit A.

22 18. The Department's records contain no evidence of
23 the Department's receipt of the original of Exhibit A from Mr.
24 Brown in 1984, nor does the Department have a record of Mr.
25 Brown's attempt to surrender the Previous License.

26 19. The Department did not accept the surrender of the
27 Previous License from Mr. Brown.

1 20. Exhibit A, even if received by the Department, did
2 not notify the Department of a permanent change of address for
3 Mr. Brown. By its terms, the letter applied only for the 90 days
4 following April 27, 1984. On July 26, 1984, in the absence of
5 further instructions, Mr. Brown's address of record reverted to
6 the address identified in ¶3.

7 21. As an additional defense, Mr. Brown claimed that
8 he did not commit the acts found against him in Docket No. 5887.

9 22. Mr. Brown had the opportunity to answer and defend
10 himself against the allegations brought in Docket No. 5887. The
11 current proceeding before the Director is not the appropriate
12 forum for Mr. Brown to attack or relitigate the issues previously
13 resolved against him, and which Mr. Brown had the opportunity and
14 incentive to refute. The purpose of this proceeding instead
15 focused upon the manner in which the Director should exercise his
16 discretion regarding the License, given the revocation of the
17 Previous License, the facts underlying the revocation, and Mr.
18 Brown's failure to reveal the revocation in the applications
19 submitted to receive the License.

20 Discussion

21 23. The Legislature vested the Director with the
22 discretion to determine the qualifications of an applicant for
23 the issuance of an insurance license or for a licensee to
24 maintain an insurance license. A.R.S. §20-290(B); see A.R.S.
25 §§20-316(A), 20-316(C) (authorizing the Director to suspend or
26 revoke a license or to impose civil penalties against the holder
27 of an insurance license for violations of Title 20).

1 24. For the Director to exercise this discretion,
2 applicants for the issuance of a license must submit an
3 application to the Director. A.R.S. §20-291. When reviewing an
4 application, the Director must consider:

5 a. Whether the applicant meets the qualifications
6 prescribed by the Legislature for the issuance of the license.

7 b. The applicant's identity, personal history,
8 business record, experience in insurance, the purpose for which
9 the license is to be used, and "other pertinent facts the
10 Director requires." A.R.S. §20-291(A).

11 c. Whether the applicant has been previously
12 licensed to transact any kind of insurance in this state or
13 elsewhere. A.R.S. §20-291(B)(1).

14 d. Whether the applicant has previously had a
15 license refused, suspended or revoked. A.R.S. §20-291(B)(2).

16 25. After considering these factors, the Director may
17 refuse to accept an application or refuse to issue a license if
18 these or other factors exist that draw into question the
19 applicant's qualifications for license, including a material
20 misrepresentation or fraud in the application for, or attempt to
21 obtain an insurance license. A.R.S. §20-290(B)(1); see A.R.S.
22 §20-316(A)(3).

23 26. Applicants for the issuance of an insurance
24 license must truthfully, fully, and adequately disclose
25 information on a license application. A.R.S. §20-316(A)(2). If
26 an applicant for the issuance of an insurance license fails to
27 disclose background information which falls within the scope of
28 A.R.S. §§20-290(B), 20-291(A) and 20-291(B), the non-disclosure

1 serves to hamper, thwart, or prevent the Director from the
2 exercise and discharge of the duty delegated by the Legislature.
3 Mr. Brown's failure to fully and truthfully reveal any
4 information about the revocation of the Previous License when he
5 applied for the License raises the question whether he can be
6 expected to be honest in transactions entered into under the
7 License.

8 27. The revocation order in Docket No. 5887, stemming
9 from the finding that Mr. Brown had misappropriated premium,
10 constitutes a material fact relevant to the Director's exercise
11 of discretion in the issuance of licenses. Mr. Brown had an
12 absolute obligation to disclose the revocation and the violation
13 of Title 20 that led to the revocation order.

14 CONCLUSIONS OF LAW

15 1. Mr. Brown received notice of this proceeding as
16 prescribed by A.R.S. §§20-163 and 41-1061.

17 2. The Director has jurisdiction over this matter
18 pursuant to A.R.S. §§20-142.

19 3. Mr. Brown's conduct constitutes a material
20 misrepresentation or fraud in the application for, or attempt to
21 obtain any insurance license, within the meaning of A.R.S.
22 §20-290(B)(1).

23 4. Mr. Brown has a record of misappropriation or
24 conversion of monies belonging to policyholders, within the
25 meaning of A.R.S. §20-290(B)(3).

26 5. Mr. Brown has a record of suspension or revocation
27 of an insurance license in any jurisdiction, within the meaning
28 of A.R.S. §20-290(B)(5).

1 Law Division within 30 days of the date of this Order, setting
2 forth the basis for such relief pursuant to A.A.C. R4-14-114(B).

3 The final decision of the Director may be appealed to
4 the Superior Court of Maricopa County for judicial review pursuant
5 to A.R.S. §20-166.

6 COPY of the foregoing mailed/delivered
7 this 9th day of May, 1995, to:

8 Gay Ann Williams, Deputy Director
9 Charles R. Cohen, Executive Assistant Director
10 John Gagne, Manager, Investigations
11 Arnold Sniegowski, Investigator
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29 
Chris Crawford