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4 Phoenix, Arizona 85007-2997
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Attorneys for Arizona Department of Insurance
6

STATE OF ARIZONA
FILED

NOV 19 1998

DEPT. OF INSURANCE
BY Kath

7 STATE OF ARIZONA

8 DEPARTMENT OF INSURANCE

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

13 On October 21, 1998, the Arizona Department of Insurance (the "Department") issued a
14 Notice of Hearing ("Notice") in this matter, a copy of which is attached and incorporated herein by
15 this reference. The Notice required Michael Scott Azrak ("Respondent") to provide written answers
16 to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this
17 date, Respondent has failed to file an answer. On November 17, 1998, counsel for the Department
18 filed a Request for Default and proposed Findings of Fact, Conclusions of Law and Order. As of this
19 date, Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-106(D),
20 a party that fails to file an answer within the time provided shall be deemed to be in default and one
21 or more of the allegations in the Notice of Hearing may be deemed to be admitted.

22 FINDINGS OF FACT

- 23 1. Notice was proper.
24 2. Michael Scott Azrak is in default.
25 3. The allegations in the Notice of Hearing are deemed admitted.
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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

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

2
3 Lewis D. Kowal, Administrative Law Judge
4 Office of Administrative Hearings
5 1700 West Washington, Suite 602
6 Phoenix, Arizona 85007

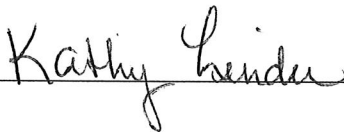
7 Gerrie L. Marks, Executive Assistant for Regulatory Affairs
8 John D. Gagne, Assistant Director
9 Scott Greenberg, Business Administrator
10 Catherine O'Neil, Consumer Affairs Legal Officer
11 Maureen Catalioto, Licensing Supervisor
12 Donna Futrell, Investigator
13 Arizona Department of Insurance
14 2910 North 44th Street, Suite 210
15 Phoenix, Arizona 85018

16 Michael Scott Azrak
17 1711 South Extension #2030
18 Mesa, Arizona 85210

19 Michael Scott Azrak
20 1655 East Southern Avenue, #57
21 Tempe, Arizona 85282

22 Michael Scott Azrak
23 616 South Beeline Highway #202
24 Payson, Arizona 85541

25 Randy Niles
26 Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007

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OCT 22 1998

OCT 21 1998

DEPT. OF INSURANCE
BY BB

1 RECEIVED

STATE OF ARIZONA

2 DEPARTMENT OF INSURANCE

3 In the Matter of:)
4 MICHAEL SCOTT AZRAK,)
5 Respondent.)

No. 98A-164-INS

NOTICE OF HEARING

6
7 PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes
8 ("A.R.S.") §§ 20-161 through and including 20-165, 41-1061 through and including 41-1066 and
9 41-1092.02, the above-captioned matter will be heard before the Director of Insurance of the State
10 of Arizona (the "Director"), or his duly designated representative, on the 1st day of December,
11 1998, at 9:00 a.m. at Office of Administrative Hearings, 1700 West Washington Street, Capitol
12 Tower, West Wing, Suite 602, Phoenix, Arizona 85007 (the "Hearing").

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

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

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

25 Pursuant to A.R.S. § 41-1092.07(D), a clear and accurate record of the proceedings will be
26 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.

1 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
2 Attorney General Shelby L. Cuevas (602) 542-3702, 1275 West Washington, Phoenix, Arizona
3 85007.

4 NOTICE OF APPLICABLE RULES

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

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

21 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
22 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR
23 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS
24 SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE THE
25 ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE
26 OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

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

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

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

6 3. Section F, of the 1996 Application asks:
7 Has there ever been any judgment, order or other determination against you
8 in any criminal, civil, administrative or any judicial or quasi-judicial
9 proceeding of any kind in any jurisdiction based on any of the following:

- 10 a) misappropriation, conversion or the withholding of monies?
- 11 c) a finding that you were dishonest in business or financial matters?
- 12 d) fraud or misrepresentation?

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

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

16 6. Section V, Question "B" of the 1997 application asks:
17 B. Have you had any professional vocational, business license or certification
18 refused, denied, suspended, revoked or restricted, or a fine imposed by any
19 public authorities that has not previously been disclosed by you to this
agency in a license application?

20 7. Section V Question "D" of the 1997 application asks:
21 D. have you had any judgment, order or other determination, including any
22 criminal conviction issued or made against you in any criminal, civil,
23 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:

- 24 (1) Misappropriation, conversion or the withholding of moneys?
- 25 (2) Incompetence or a source of injury and/or loss to anyone?
- 26 (3) Dishonesty in business or financial matters?

1 (4) Fraud or misrepresentation?

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

3 9. On or about April 28, 1994, the Oregon Department of Consumer and Business
4 Services, Division of Finance and Corporate Securities, Securities Section ("Oregon Securities
5 Section"), entered a cease and desist order, In the Matter of Michael Scott Azrak, Docket No. 0-94-
6 0016, Order to Cease and Desist Order Denying Exemptions Order Imposing Civil Penalty Notice
7 of Right to Hearing ("Order to Cease and Desist"). In its Order to Cease and Desist, the Oregon
8 Securities Section found that Azrak, a licensed securities salesman in Oregon, offered and sold
9 unregistered securities and offered and sold gold stock and Boise Cascade Corporation stock, using
10 the money obtained from the sales for personal benefit, in violation of ORS 59-015(17), 59.055,
11 59.135(1), (2) and (3).

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

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

23 12. In its Order to Cease and Desist, the Oregon Securities Section ordered Azrak cease
24 and desist from transacting business in the State of Oregon in violation of ORS 59.055 and
25 59.135(1), (2) and (3) and violating any of the provisions of ORS Chapter 59. The Director of the
26

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

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

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

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

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

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

26

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


3 19. Grounds exists for the Director to suspend, revoke or refuse to renew Respondent's
4 insurance licenses, impose a civil penalty upon them, and/or order restitution, pursuant to A.R.S.
5 § 20-316(A) and (C).

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

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

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

19 DATED this 21st day of October, 1998.

20
21 
22 CHARLES R. COHEN, Acting Director
Arizona Department of Insurance

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

25 Office of Administrative Hearings
26 1700 West Washington, Suite 602
Phoenix, AZ 85007

1 John Gagne, Assistant Director
Donna Futtrel, Investigator
2 Maureen Catalitoto, Supervisor
Department of Insurance
3 2910 North 44th Street, Suite 210
Phoenix, AZ 85018

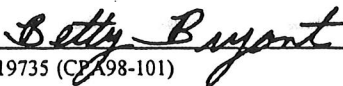
4 Shelby L. Cuevas
5 Assistant Attorney General
1275 West Washington Street
6 Phoenix, AZ 85007
Attorney for the Department
7

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

10 Michael Scott Azrak
11 1655 East Southern Avenue #57
Tempt, Arizona 85282
12 Respondent

13 A courtesy copy of this Notice of Hearing has been mailed/ delivered to the persons listed
14 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
15 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.

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

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19 19735 (CPA98-101)

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