

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

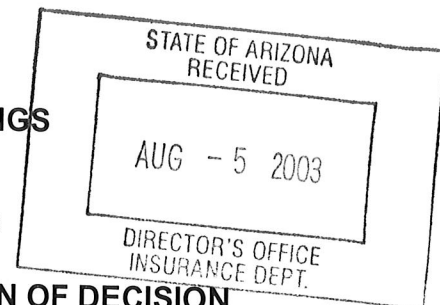
In The Matter Of An Appeal By:

No. 02A-214-INS-res

KENT MAERKI,

Real Party In Interest.

**CERTIFICATION OF DECISION  
OF ADMINISTRATIVE  
LAW JUDGE**



I have reviewed the records of the Office and as co-custodian of such records have determined:

1. On June 25, 2003, the recommended decision in the above entitled matter was transmitted to the Department of Insurance by mail;
2. Pursuant to A.R.S. § 41 -1092.08, and A.R.S. § 1-243 the Department of Insurance was required to accept, reject or modify the recommended decision, as evidenced by receipt of such action by the Office of Administrative Hearings, on or before July 30, 2003.
3. No action by Department of Insurance was received by the Office of Administrative Hearings as of July 30, 2003.

Therefore, pursuant to A.R.S. § 41 -1092.08(D), the attached recommended decision is certified as the final administrative decision of the Department of Insurance.

Office of Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, Arizona 85007  
(602) 542-9826

1  
2 You have the right to request a rehearing from the Department of Insurance pursuant to  
3 A.R.S. § 41-1092.09(A). In addition, you have the right to appeal your action to the  
4 Superior Court, pursuant to A.R.S. § 41-1092.08(H) although you may be required to  
5 seek a rehearing from the Department of Insurance before you appeal (see A.R.S. §  
6 41-1092.09(B)). Your further rights will be lost if you do not act in a timely manner.  
7 You may wish to review these sections as quickly as possible after receipt of this notice.  
8 They can be located at your local library.  
9

10 Done this day, August 5, 2003.

11  
12  
13   
14 Cliff J. Vanell  
Director

15 Original transmitted by mail this  
16 5 day of August, 2003 to:  
17

18 Charles R. Cohen, Director  
19 Department of Insurance  
20 ATTN: Kathy Linder  
21 2910 North 44th Street, Ste. 210  
Phoenix, AZ 85018

22 Department of Insurance  
23 Catherine O'Neil  
24 2910 North 44th Street, Suite 210  
Phoenix, AZ 85018

25 Arizona Department of Insurance  
26 Rebecca Sanchez  
27 2910 North 44th Street, Suite 210  
Phoenix, AZ 85018

28 Grant Williams, P.C.  
29 Maria Crimi Speth  
30 3200 North Central Ave, Ste 2400  
Phoenix, AZ 85012

1 Department of Insurance  
2 Mary M. Butterfield  
3 2910 North 44th Street, Suite 210  
4 Phoenix, AZ 85018

5 Department of Insurance  
6 Bob Hill  
7 ATTN: Curvey Burton  
8 2910 North 44th Street, Ste. 210  
9 Phoenix, AZ 85018

10 Jennifer A. Boucek  
11 1275 W. Washington  
12 Phoenix, AZ 85007

13 Department of Insurance  
14 Gerrie L. Marks  
15 2910 North 44th Street, Suite 210  
16 Phoenix, AZ 85018

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
By 

Office of Administrative Hearings

1400 West Washington, Suite 101 - Phoenix, Arizona 85007  
Telephone (602)-542-9826 FAX (602)-542-9827

Janet Napolitano  
Governor

Cliff Vanell  
Director

June 25, 2003

Charles R. Cohen, Director  
Department of Insurance  
ATTN: Kathy Linder  
2910 North 44th Street, Ste. 210  
Phoenix, AZ 85018

Re: 02A-214-INS-res

In the Matter of:

KENT MAERKI,

Respondent.

Dear Mr. Cohen:

Please find the decision of the Office of Administrative Hearings for the above entitled matter.

Sincerely,

  
Cliff J. Vanell  
Director



**Mission Statement:** We will contribute to the quality of life in the State of Arizona by fairly and impartially hearing the contested matters of our fellow citizens arising out of State regulation.



1 5. As proof of Respondent's submission of the First Application, the Department  
2 presented a copy of the First Application into evidence, which shows that Respondent  
3 signed the document on July 31, 1995. The First Application has a State Treasurer's  
4 stamp from the Insurance Department dated September 26, 1995.

5 6. Department Investigator Carmen Haga ("Investigator Haga") testified that from  
6 the Department's perspective, a license application is not considered to be complete  
7 until it is received with all of the questions having been fully answered and full payment  
8 of the application fee is presented. According to Investigator Haga, the application  
9 must be correct as of the date that the application is considered completed rather than  
10 the date when the application was signed by the applicant, if the signature date is  
11 earlier than the date of completion.

12 7. Investigator Haga testified that she was somewhat familiar with the procedures  
13 of the Department's licensing section but could not testify as to whether the First  
14 Application was received by the Department and kept pending receipt of the application  
15 fee or whether the First Application was submitted to the Department along with the  
16 application fee on September 26, 1995.

17 8. It is noted that Investigator Haga has been an Investigator for the Department for  
18 two years and there was no testimony or credible evidence presented as to the  
19 procedures followed in the Department's licensing division in 1995, when the First  
20 Application was submitted to the Department.

21 9. Respondent answered "No" to question 5 in the First Application which asked:  
22 SINCE YOUR LAST APPLICATION OR RENEWAL have you had any professional,  
23 vocational or business license refused, denied, suspended, revoked or restricted, or  
24 have you withdrawn any application for or surrendered any licenses?"

25 10. The Department presented an unpublished opinion that was issued on April 25,  
26 1995 by the United States Court of Appeals for the Sixth Circuit that affirmed an order  
27 of the United States District Court for the Northern District of Ohio, finding that  
28 Respondent and his then counsel had violated Rule 11 of the Federal Rules of Civil  
29 Procedure *in Maerki v. Wilson* ("Wilson"), 53 F.3d 331, 1995 WL 242004 (6<sup>th</sup> Cir.  
30 (Ohio)).

1 11. In the above-mentioned opinion, the Court found that Respondent violated Rule  
2 11 by (1) maintaining an action in the district court while knowing that the claims  
3 belonged to Maerki's bankruptcy estate and the claims had been abandoned by the  
4 bankruptcy trustee; (2) retaining counsel while knowing that counsel had not been  
5 authorized by the bankruptcy trustee to represent either Maerki or the bankruptcy estate  
6 in this matter; (3) maintaining the action in district court despite the fact that the claims  
7 were never listed as potential assets of the bankruptcy estate; (4) basing claims in the  
8 district court action on alleged ownership interest of Maerki's which were contrary to  
9 sworn statements of Maerki in other litigation; (5) failing to file comments on time and  
10 inaccurately completing certificates of service; and (6) generally taking a cavalier  
11 approach to the procedural rules.

12 12. On September 14, 1995, a civil complaint was filed in the superior Court of  
13 Arizona, Maricopa County, *Andrew W. Fisher and Suzanne R. Fisher, Kent Stredney v.*  
14 *Kent Maerki and Jane Doe Maerki dba One Minute Rose of America*, Docket No. CV  
15 95-15178 ("Fisher").

16 13. The Complaint in Fisher alleged that Respondent had committed common law  
17 fraud, securities fraud, and consumer fraud resulting from the offer and sale of an  
18 automatic floral vending unit.

19 14. Respondent testified that as of the date when he completed the First Application,  
20 he was unaware of the above-mentioned Rule 11 violation decision and was unaware  
21 of the Fisher case.

22 15. Respondent testified that he became aware of the above-mentioned Rule 11  
23 case upon receiving from the Department a copy of the unpublished Court of Appeals  
24 decision a few weeks before the hearing.

25 16. The evidence of record did not establish that Respondent ever received any  
26 order or judgment from the District Court or the Court of Appeals informing him about  
27 the dismissal of the action against the Wilsons and sanctioning both him and his  
28 counsel.

29 17. The Department contended that by filing the appeal that shows that Respondent  
30 was aware of the decision and sanction. However, there is no evidence in the record  
that establishes who actually filed the appeal, so it is unclear as to whether Respondent

1 filed the appeal or whether the appeal was filed on his behalf by counsel who was also  
2 sanctioned.

3 18. Because the allegations involve what was known to Respondent at the time the  
4 First Application or subsequent applications were submitted to the Department, in order  
5 to support a finding that Respondent knew of the District Court or Court of Appeals  
6 decision, there must be evidence establishing or inferring that fact, and no credible  
7 evidence has been presented to establish that.

8 19 With respect of the Fisher Case, the Affidavit of Service of Process shows that  
9 Respondent was served with a copy of the Summons and Complaint on September 14,  
10 1995. While the Department contends that the First Application was submitted to it on  
11 September 26, 1995 and the Fisher Case should have been disclosed, Respondent  
12 testified that he submitted the First Application to the Department on July 31, 1995  
13 along with the application fee.

14 20. The weight of the credible evidence supports a finding that Respondent  
15 submitted the First Application to the Department on July 31, 1995.

16 21. On March 6, 1997, a civil complaint was filed in the Superior Court of Arizona,  
17 Maricopa County, *Hayden Commerce Center Partnership v. Kent Maerki, a single man*  
18 *dba One Minute Rose*, Docket No. CV97-04167 ("Hayden").

19 22. The Complaint in the Hayden case alleged that Respondent entered into a lease  
20 with the Plaintiff therein in February 1996 and had failed to pay rent from February 1996  
21 to February 1997.

22 23. The Superior Court of Maricopa County case history docket for the Hayden Case  
23 shows that service was made by publication on two separate dates by the filing of the  
24 Affidavits of Publication which occurred on August 11 and 14, 1997.

25 24. Respondent testified that he was unaware of the Hayden Case or of any  
26 judgment in the Hayden Case until he was notified about it by the Department.

27 . . .

28 . . .

29 . . .

30 . . .



1  
2 Second Application

3 25. On September 26, 1997, the Department received an Application for Individual  
4 Insurance License Renewal Application filed by Maerki to renew his life and disability  
5 insurance agent's license ("Second Application").<sup>1</sup>

6 26. Maerki answered "No" to the questions listed in Section V, Question E of the  
7 Second Application which asked: Are any civil, administrative, other judicial or quasi-  
8 judicial proceedings of any kind, or any criminal proceedings in which an indictment,  
9 criminal complaint or information has been issued naming you as defendant, currently  
10 pending against you in any jurisdiction based on any of the following:

- 11 (1) Misappropriation, conversion or the withholding of moneys?  
12 (2) Incompetence or a source of injury and/or loss to anyone?  
13 (3) Dishonesty in business or financial matters?  
14 (4) Fraud or misrepresentation?  
15 (5) Any cause arising out of an insurance transaction?

16 27. On December 1, 1997, the Court entered a Default Judgment against  
17 Respondent in the Hayden case in the amount of \$12,436.21 with interest at the rate of  
18 10% per annum.

19 28. The Department contended that Respondent should have disclosed that the  
20 Hayden Case was pending in the Second Application.

21 29. The weight of the evidence of record established that while Respondent was  
22 served by publication, which is sufficient for that case to go forward in court based on  
23 constructive knowledge, Respondent did not have actual knowledge that the Hayden  
24 case was pending and could not have disclosed it in the Second Application.

25 Third Application

26 30. On September 21, 1999, the Department received an Application for an  
27 Individual Insurance License Renewal Application ("Third Application") filed by  
28 Respondent to renew his life and disability insurance agent's license.<sup>2</sup>

29 <sup>1</sup> The Second Application contains the date of September 26, 1997, as the date when Respondent signed  
that application.

30 <sup>2</sup> The Third Application contains the date of September 18, 1999, as the date when Respondent signed  
that application.

1 31. Respondent answered "No" to the questions listed in Part II, Section D of the  
2 Third Application which asked: "Have you had any judgment, order or other  
3 determination, including any conviction issued or made against you in any criminal, civil,  
4 administrative or other judicial or quasi-judicial proceeding of any kind in any jurisdiction  
5 that has not been previously disclosed by you to this agency in a license application  
6 based on any of the following:

- 7 (1) Misappropriation, conversion or the withholding of moneys?  
8 (2) Incompetence or a source of injury and/or loss to anyone?  
9 (3) Dishonesty in business or financial matters?  
10 (4) Fraud or misrepresentation?  
11 (5) Any cause arising out of an insurance transaction?

12 32. The Department contended that the above-mentioned Rule 11 determination and  
13 the Hayden case judgment should have been disclosed in the Third Application. The  
14 Administrative Law Judge addressed this above with the finding concerning the First  
15 Application and the same rationale and ruling applies to the Third Application.

16 33. The evidence of record established that the Hayden case judgment was a  
17 default judgment. Respondent testified that he did not receive a copy of the judgment  
18 and was even unaware that the case was pending until he learned about the case and  
19 judgment from the Department.

20 34. While it may be argued that through entry of the default judgment, Respondent  
21 had constructive knowledge of the judgment, the weight of the evidence of record  
22 established that Respondent did not have actual knowledge that the Hayden case  
23 existed until he was made aware of it by the Department.

24 35. In support of the Department's contention that Respondent knew of the default  
25 judgment in the Hayden case, the Department referred to a Minute Entry in that case  
26 dated December 1, 1997, wherein the Court noted that the hearing was for a Civil  
27 Default and that "an individual who identified himself as Kent Maerki contacted the court  
28 by leaving a message on the Court's voice-mail indicating that he had received notice of  
29 today's default hearing, but was in Colorado and was unable to attend." (Exhibit 5a).

30 36. Respondent testified that he did not contact the Court regarding the Hayden  
case and did not leave such a message. Further, Respondent testified that he was not

1 in Colorado at the time of the default hearing in the Hayden case and did not know of  
2 the default hearing. The Administrative Law Judge finds Respondent's testimony in  
3 that regard to be credible and more persuasive than a note in a Minute Entry that  
4 cannot verify whether the person who left a voice-mail message was in fact the  
5 Respondent.

6 37. The issues to be addressed at the instant hearing involve whether the  
7 Respondent intentionally withheld or misrepresented information to the Department in  
8 order to obtain or maintain licensure. Under the circumstances, imputed knowledge to  
9 Respondent of an action which was permitted to proceed by service of publication and  
10 where there was an entry of a default judgment is not sufficient to establish that  
11 Respondent knew or should have known of the existence of the Hayden case and  
12 Judgment. Therefore, the evidence of record does not support a finding that  
13 Respondent intentionally or negligently failed to disclose or misrepresented that  
14 information to the Department.

15 38. On January 20, 2000, the Court issued a Judgment against Respondent in the  
16 Fisher case for common law fraud, violation of the Arizona Securities Laws and Arizona  
17 Consumer Fraud Act in the total amount of \$51,750.00 and \$50,000.00 in punitive  
18 damages.

19 Fourth Application

20 39. On August 1, 2001, The Department received an Application for an Individual  
21 Insurance License Renewal Application ("Fourth Application") filed by Respondent for  
22 renewal of his life and disability insurance agent's license.<sup>3</sup>

23 40. Respondent answered "No" to the questions listed in Part II, Question D of the  
24 Fourth Application which asked: "Have you had any judgment, order or other  
25 determination, including any conviction issued or made against you in any criminal, civil,  
26 administrative or other judicial or quasi judicial proceeding of any kind in any jurisdiction  
27 that has not been previously disclosed by you to this agency in a license application  
28 based on any of the following:

- 29 (1) Misappropriation, conversion or the withholding of moneys?

30 <sup>3</sup> The Fourth Application contains the date of July 22, 2001, as the date when Respondent signed that application.

1 (2) Incompetence or a source of injury and/or loss to anyone?

2 (3) Dishonesty in business or financial matters?

3 (4) Fraud or Misrepresentation?

4 (5) Any cause arising out of an insurance transaction?

5 41. The Department contended that the above-mentioned Rule 11 determination in  
6 the Wilson case, the Hayden case judgment, and the Fisher case judgment should  
7 have been disclosed by Respondent in the Fourth Application.

8 42. Jeffrey Proper ("Mr. Proper") , counsel for the Plaintiffs in the Fisher case  
9 testified that Respondent answered the Complaint and filed a counter claim and  
10 participated to a degree in the lawsuit until a certain point in time, after which, counsel  
11 had difficulty locating Respondent.

12 43. The Fisher case proceed to a Default Judgment and Mr. Proper used his best  
13 efforts in attempting to locate Respondent without success prior to the default judgment  
14 being entered and represented that tot the Court.

15 44. Mr. Proper testified that after the Default Judgment in the Fisher case, he spoke  
16 to Respondent on three different dates.

17 45. Mr. Proper testified that in mid-2001, he was contacted by a person who  
18 provided information as to the whereabouts of Respondent. Based on that information,  
19 Mr. Proper contacted Respondent and discussed with him the Fisher case judgment  
20 and inquired as to whether Respondent had any intention to make any payments.

21 46. Mr. Proper testified that in July 2002, in response to notification from someone  
22 appearing to be Respondent, he contacted Respondent and again made inquiry as to  
23 whether Respondent had any intention of making payments on the Judgment.

24 According to Mr. Proper, Respondent stated that he would like to make payments but  
25 did not have the ability to do so.

26 47. Mr. Proper also testified that he spoke to Respondent about three weeks ago  
27 about the instant hearing.

28 48. Respondent testified that he did to recall having had any conversations with Mr.  
29 Proper other than the one that occurred three weeks ago.

30 49. The Administrative Law Judge finds Mr. Proper's testimony to be credible and  
more persuasive than Respondent's testimony concerning telephone conversation that

1 took place between Mr. Proper and Respondent concerning the Fisher case and  
2 judgment.

### 3 All Applications

4 50. The weight of the credible evidence established that as of mid-2001,  
5 Respondent had been made aware of the Fisher case Default Judgment and that  
6 information should have been disclosed on the Fourth application.

7 51. Although the Department contends that there is a pattern of conduct and series  
8 of lawsuits and orders that Respondent did not disclose to the Department, the weight  
9 of the credible evidence of record established that the Rule 11 sanction in the Wilson  
10 case involved Respondent acting as a Plaintiff, and in the Hayden and Fisher cases,  
11 Respondent was the Defendant, for a total of three cases.

12 52. As set forth above, the Department did not present credible evidence to establish  
13 that as of the date of the First, Second, Third or Fourth Applications, Respondent was  
14 aware of the Rule 11 sanction decision in the Wilson case. Therefore, it is determined  
15 that Respondent did not misrepresent or withhold information regarding that matter.

16 53. With respect to the Hayden case and Judgment, the weight of the evidence of  
17 record established that Respondent was unaware that the case was pending or of any  
18 judgment entered in that matter. Therefore, it is determined that Respondent did not  
19 intentionally withhold or misrepresent information on the Second, Third or Fourth  
20 Applications regarding the Hayden case.

21 54. With respect to the Fisher case, Respondent was not served with the Summons  
22 and Complaint until September 14, 1995. Therefore, Respondent should have  
23 disclosed to the Department that the Fisher case was pending in the Second  
24 Application. The Default Judgment was entered in the Fisher case on January 20,  
25 2002, though there is no indication that Respondent knew of it until mid-2001.

26 55. In mitigation, Respondent testified that he thought the Fisher case had been  
27 dropped. There is evidence in a document showing that Respondent advised the  
28 Fishers in a letter as to his new change of address and telephone number but failed to  
29 notify the Superior Court of his change of address.

30 56. The docket of the Fisher case shows that there was an eighteen month period  
when there was no activity causing the case to be placed on the inactive calendar and

1 dismissed. Mr. Proper testified that the case dismissal was a mistake and that upon  
2 contacting the Court and making the appropriate filing, the Order Dismissing the Case  
3 was vacated and the matter was restored to the trial calendar.

4 57. Respondent testified that because of inactivity regarding the Fisher case, he  
5 believed that the Fishers dropped the case and did not want to pursue it. However, the  
6 weight of the evidence of record shows that position to be disingenuous, because he  
7 did not notify the Court of a change of address so as to be updated as to the status of  
8 the case nor did he take affirmative action to determine its status though he knew that  
9 the Plaintiffs were pursuing it through their counsel, Mr. Proper. So even if the  
10 Administrative Law Judge does not find that Respondent had a continuing obligation to  
11 keep abreast as to the status of the Fisher case so as to properly inform the  
12 Department if a judgment was entered, the weight of the credible evidence of record  
13 established that Respondent was made aware of the Fisher case Judgment in mid-  
14 2001 through a conversation he had with Mr. Proper and should have disclosed that  
15 judgment in the Fourth Application.

16 58. Respondent testified that he has been in the insurance industry for 35 years,  
17 having been also licensed in California and Ohio, and that, but for the instant matter,  
18 has not had any disciplinary action taken against his insurance licenses. That record is  
19 taken into consideration in determining the nature of the disciplinary action to be taken  
20 against Respondent.

### 21 CONCLUSIONS OF LAW

22 1 Respondent maintained that the violations of law alleged in the amended Notice  
23 of Hearing involve A.R.S. § 20-295, which was not effective until October 2001, after  
24 the alleged acts occurred and Respondent asserts that the statute cannot be applied  
25 retroactively.

26 2. The Department concurred with Respondent regarding the applicability of A.R.S.  
27 § 20-295 and requested that the Amended Notice of Hearing be further amended to  
28 reflect alleged violations of A.R.S. § 20-316(A)(3).<sup>4</sup> The Administrative Law Judge

29 <sup>4</sup> A.R.S. § 20-316 was in effect at the time when the alleged conduct occurred and repealed when A.R.S.  
30 § 20-295 became effective on October 1, 2001. The provisions of A.R.S. § 20-295 (A)(3) are essentially  
the same as that that was contained in A.R.S. § 20-316(A)(3).

1 amends the Amended Notice of Hearing to reflect allegations of Respondent having  
2 violated the provisions of A.R.S. § 20-316(A)(3), which are now codified in A.R.S. § 20-  
3 295(A)(3).

4 3. A.R.S. § 20-316(A) provided:

5 A. The Director may suspend for not to exceed twelve months or may revoke  
6 or refuse to renew any license issued under this article ... of, upon notice to the  
7 licensee and to the insurer represented, as to an agent, or broker, as to a solicitor, and  
8 upon a hearing, if demanded, the director finds as to the licensee any one or more of the  
9 following:

10 ...

11 3. The existence of misrepresentation or fraud in obtaining or attempting to  
12 obtain any insurance license.

13 4. A.R.S. § 20-295(A) provides:

14 The Director may deny, suspend for not more than twelve months, revoke or  
15 refuse to renew an insurance producer's license or may impose a civil penalty in  
16 accordance with subsection F of this section or any combination of action for any one or  
17 more of the following causes:

18 ...

19 3. Obtaining or attempting to obtain a license through misrepresentation or  
20 fraud.

21 5. Although Respondent objected to the above-mentioned request, the  
22 Administrative Law Judge finds that Respondent was prepared to address the merits of  
23 the issues raised during the hearing and there is no prejudice amending the Amended  
24 Notice of Hearing to reflect alleged violations of A.R.S. § 20-316(A)(3). Therefore, the  
25 Administrative Law Judge amends the Amended Notice of Hearing to reflect allegations  
26 of Respondent having violated A.R.S. § 20-316(A)(3), which is now codified in A.R.S. §  
27 20-295(A)(3).

28 6. The Department contended that failing to disclose information, as set forth in the  
29 above Findings of Fact, are violations of law but also that the activity underlying the  
30 above-mentioned Orders, Decisions and Judgments show Respondent to be  
untrustworthy and dishonest in business practices.

1 7. The above-mentioned Rule 11 sanctions in the Wilson case show Respondent's  
2 failure to be honest to the Court and judicial system, however, the nature of the  
3 activities of Respondent therein did not involve dealings with business practices.

4 8. The allegations in the Fisher case, though they involved common law and  
5 consumer fraud and securities violations, which are of strict liability, the Judgment was  
6 a default judgment.

7 9. With respect to the Hayden case, the judgment was by default and did not  
8 involve any fraud but involved dishonest business practices in that a valid contractual  
9 obligation for payment was not made by Respondent.

10 10. With respect to the First Application, the Administrative Law Judge finds that  
11 Respondent did not violate A.R.S. § 20-316(A)(3) regarding any of the above-  
12 mentioned matters.

13 11. With respect to the Second Application, The Administrative Law Judge finds that  
14 Respondent should have disclosed that the Fisher case was pending and his failure to  
15 disclose that case in the Second Application constitutes a violation of A.R.S. § 20-  
16 316(A)(3).

17 12. With respect to the Third Application, the Administrative Law Judge finds that  
18 Respondent did not violate A.R.S. § 20-316(A)(3) regarding any of the above-  
19 mentioned matters.

20 13. With respect to the Fourth Application, the Administrative Law Judge finds that  
21 Respondent should have disclosed the judgment in the Fisher case and his failure to do  
22 so constitutes a violation of A.R.S. § 20-316(A)(3) now codified in A.R.S. § 20-  
23 295(A)(3).

24 14. Grounds exist for the Director of the Department ("Director") to suspend, revoke,  
25 or refuse to renew Respondent's life and disability insurance agent's (producer') license  
26 pursuant to A.R.S. §20-316(A)(3).

27 ...  
28 ...  
29 ...



1  
2 **RECOMMENDED ORDER**

3 Based on the above, and taking into consideration the Respondent's otherwise  
4 good licensing record, it is recommended that on the effective date of the Order entered  
5 in this matter, all insurance licenses issued by the Department to Respondent shall be  
6 suspended for six months.

7 Done this day, June 25, 2003.

8 

9 Lewis D. Kowal  
10 Administrative Law Judge

11  
12 Original transmitted by mail this  
13 25 day of June, 2003, to:

14  
15 Department of Insurance  
16 Charles R. Cohen  
17 ATTN: Kathy Linder  
18 2910 North 44th Street, Ste. 210  
19 Phoenix, AZ 85018

20 By 