

MAR 2 2005

DEPT OF INSURANCE
BY CB

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

JOHN EDWARD DZUBAK,

Respondent.

No. 05A-004-INS

CONSENT ORDER

On January 11, 2005, the State of Arizona, Department of Insurance (the "Department"), issued a Notice of Hearing in the matter of John Edward Dzubak ("Dzubak"). Dzubak wishes to waive his right to a hearing and resolve this matter. Dzubak admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. John Edward Dzubak ("Dzubak") is currently and was at all material times licensed as a Resident Accident/Health Producer and Life Producer, Arizona license number 6475, which expires on November 30, 2005.

2. On or about May 26, 2004, the Arizona Department of Insurance ("Department") received a Request For Assistance from Todd W. Barlow ("Barlow"), dated May 26, 2005. Barlow alleged that Dzubak had not disclosed a civil judgment on his license application.

3. On January 25, 2000, Barlow filed a Small Claims Complaint in *Todd W. Barlow (FSC) v. John E. "Jack" Dzubak*, Scottsdale Justice Court, No. CV00-00501SC

4. On May 1, 2000, the Summons and Complaint in Cause No. CV00-00501SC was served upon Dzubak. The Complaint alleged that Dzubak failed to pay a loan secured by future commissions earned on insurance policies.

5. On July 19, 2000, the Scottsdale Justice Court entered a Default Judgment in Cause No. CV00-00501SC, awarding Barlow \$904.71, as well as \$56.73 in costs, and ten percent (10%) interest per annum from July 19, 2000 until the Judgment was paid in full.

1 6. On December 28, 2001, Dzubak filed an Insurance License Renewal Application with
2 the Department. In his Renewal Application, Dzubak answered “no” to Part II, Question D which
3 states:

4 Have you had any judgment, order or other determination made
5 against you in any criminal, civil, administrative, judicial or quasi-
6 judicial proceeding of any kind in any jurisdiction, including any
7 criminal conviction, that has not been previously been disclosed by
8 you to this agency in a license application based on any of the
9 following:

10 ...
11 2. Improperly withholding, misappropriating or converting any
12 monies or properties received in the course of doing insurance
13 business?

14 ...
15 11. For any other cause arising out of an insurance transaction?

16 7. On October 8, 2003, Dzubak filed an Insurance License Renewal Application with
17 the Department. In his Renewal Application, Dzubak answered “no” to Part II, Question D which
18 states:

19 Have you had any judgment, order or other determination made
20 against you in any criminal, civil, administrative, judicial or quasi-
21 judicial proceeding of any kind in any jurisdiction, including any
22 criminal conviction, that has not been previously been disclosed by
23 you to this agency in a license application based on any of the
24 following:

25 ...
26 2. Improperly withholding, misappropriating or converting any
monies or properties received in the course of doing insurance
business?

...
11. For any other cause arising out of an insurance transaction?

8. On May 28, 2004, the Department requested a response from Dzubak for his failure
to disclose the judgment on his license renewal applications in 2001 and 2003.

9. On June 29, 2004, the Department received Dzubak’s response.

10. On July 1, 2004, the Department advised Dzubak by letter that it would allow him 45
days to resolve the issue informally before it initiated any administrative action.

11. On August 25, 2004, the Department sent Dzubak a letter via certified mail advising
that his failure to disclose the judgment on his renewal applications constituted a violation of

1 Arizona insurance laws. On September 14, 2004, the Department received the domestic return
2 receipt indicating that Dzubek had received the letter on September 11, 2004.

3 12. On November 5, 2004, the Department sent Dzubak a third letter via certified mail
4 allowing him two additional weeks, until November 19, 2004, to resolve the issue informally before
5 it initiated any administrative action. On November 8, 2004, the Department received the domestic
6 return receipt, indicating Dzubak had received the letter on November 6, 2004.

7 13. As of this date, Dzubak has failed to resolve the issue informally.

8 **CONCLUSIONS OF LAW**

9 1. The Director has jurisdiction over this matter.

10 2. Respondent's conduct, as alleged above, constitutes providing incorrect, misleading,
11 incomplete or materially untrue information in the license application, in violation of A.R.S. § 20-
12 295(A)(1).

13 3. Respondent's conduct, as alleged above, constitutes obtaining or attempting to obtain
14 a license through misrepresentation or fraud, in violation of A.R.S. § 20-20-295(A)(3).

15 4. Respondent's conduct, as alleged above, constitutes improperly withholding,
16 misappropriating or converting any monies or properties received in the course of doing insurance
17 business, in violation of A.R.S. § 20-295(A)(4).

18 5. Grounds exist to suspend, revoke or refuse to renew Dzubak's Resident
19 Accident/Health Producer and Life Producer's license and/or impose a civil penalty, pursuant to
20 A.R.S. §§ 20-295(A) and (F).

21 **ORDER**

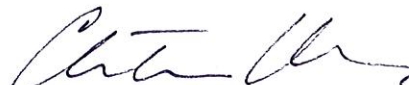
22 **IT IS ORDERED:**

23 1. The Arizona Resident Accident/Health Producer and Life Producer License of
24 Respondent John Edward Dzubak, license number 6475, is hereby suspended for a period of one (1)
25 month effective 30 days from the entry of this Consent Order.

26 . . .

1 2. The administrative hearing in this matter, currently scheduled for March 1, 2005, at
2 9:00 a.m., at the Office of Administrative Hearings, is hereby vacated.

3 DATED AND EFFECTIVE this 2nd day of March, 2005.

4
5
6 
7 Christina Urias, Director
8 Arizona Department of Insurance

8 **CONSENT TO ORDER**

9 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and
10 Order.

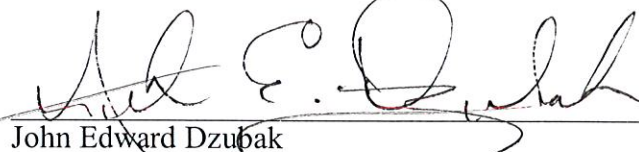
11 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and
12 admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law
13 and Order.

14 3. Respondent is aware of his right to notice and a hearing at which he may be
15 represented by counsel, present evidence and cross-examine witnesses. Respondent irrevocably
16 waives his right to a hearing and to any court appeals relating to this Consent Order.

17 4. Respondent states that no promise of any kind or nature, except as expressly
18 contained in this Consent Order, was made to him to induce him to enter into this Consent Order,
19 and that he has entered into this Consent Order voluntarily.

20 5. Respondent acknowledges that the acceptance of this Consent Order by the Director
21 is solely to settle this matter against him and does not preclude any other agency, officer or
22 subdivision of this state from instituting civil or criminal proceedings as may be appropriate now or
23 in the future.

24
25 3-1-05
26 Date


John Edward Dzubak

1 COPY of the foregoing mailed this
2 2nd of March, 2005, to:

3 Lewis D. Kowal, Administrative Law Judge
4 Office of Administrative Hearings
5 1400 W. Washington, Suite 101
6 Phoenix, Arizona 58007

7 Catherine M. O'Neil, Consumer Legal Affairs Officer
8 Scott Greenberg, Chief Operating Officer
9 Arnold Sniegowski, Investigations Supervisor
10 Cheryl Hawley, Investigator
11 Arizona Department of Insurance
12 2910 N. 44th Street, Suite 210
13 Phoenix, Arizona 85018

14 Mary E. Kosinski
15 Assistant Attorney General
16 1275 West Washington Street
17 Phoenix, Arizona 85007
18 Attorney for the Arizona Department of Insurance

19 AND COPY MAILED SAME DATE by
20 Certified Mail, Return Receipt Requested, to:

21 John Edward Dzubak
22 12485 N. 57th Avenue
23 Glendale, Arizona 85304
24 Respondent

25 
26 _____
893017; CPA04357