

DEC 30 2005

DEPT OF INSURANCE  
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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

**GARY GLEN JOHNSON,**

Respondent.

No. 05A-130-INS  
05A-166-INS

**CONSENT ORDER**

On October 5, 2005 (05A-130-INS) and November 25, 2005 (05A-166-INS), the State of Arizona, Department of Insurance (the "Department"), issued Notices of Hearing in the matter of Gary Glen Johnson ("Johnson"). Johnson wishes to waive his right to a hearing and resolve this matter. Johnson admits the following Findings of Fact are true and consents to the entry of the following Conclusions of Law and Order.

1. Johnson was at all material times licensed as a life producer, Arizona license number 6661.

2. On or about September 26, 2005, Johnson filed an application for renewal of his life insurance producer's license with the Department.

3. Part II, Question B of the renewal application asks, "Have you had any professional, vocational, business license or certification refused, denied, suspended, revoked or restricted, or a fine imposed by any public authority that has not previously been disclosed by you to this agency in a license application?"

4. Johnson answered, "Yes" to Part II, Question B of his renewal application and disclosed that an Order to Cease and Desist and imposing administrative penalties had been entered against him by the Arizona Corporation Commission (the "Commission").

1           5.     On November 3, 2005, the Department denied Johnson's renewal application  
2 for an accident/health producer and life insurance producer's license.

3           6.     On November 10, 2005, Johnson timely appealed the denial of the renewal.

4           7.     On June 29, 2004, the Commission issued an Order to Cease and Desist,  
5 Order of Disgorgement, Order for Administrative Penalties and Consent to Same (the  
6 "Order") In the Matter of Gary Glen Johnson, Johnson Estate Planning Service, Inc.,  
7 Johnson Estate Planning Service, L.L.P., Docket No. S-03518A-04-0000; Decision No.  
8 67085.

9           8.     Johnson admitted and the Commission found that from approximately July  
10 1997 through August 1998, he directly or indirectly offered and sold unregistered securities  
11 in the form of 115 promissory notes totaling \$3.5 million to approximately 83 investors,  
12 including existing insurance clients, in violation of Arizona's Securities Act. Johnson sold  
13 the promissory notes for CapitalPro Asset Management Fund, Inc. ("CapitalPro"), a start-up  
14 equipment leasing company based out of Newport Beach, California, through his offices at  
15 Johnson Estate Planning Services, L.L.P. and Johnson Estate Planning Service, Inc.  
16 Johnson was not registered as a securities dealer or a salesman or exempt from  
17 registration. Representatives of CapitalPro claimed that, for technical reasons, no  
18 securities license was required to offer and sell the CapitalPro notes and Johnson was  
19 under the impression that the Company was a legitimate equipment leasing business and  
20 that he was legally authorized to offer and sell these notes. Johnson admitted to the  
21 Commission's Findings of Fact and Conclusions of Law in their entirety and agreed to  
22 cease and desist from violating the Securities Act, to disgorge all sales commissions  
23 earned in the amount of \$164,000 and to pay an administrative penalty in the amount of  
24 \$12,500 plus interest.

25           9.     Pursuant to the terms of the Order, Johnson admitted that, consistent with  
26 CapitalPro literature, he told his clients and prospective investors that the CapitalPro

1 promissory notes were a safe investment option and failed to articulate material risks  
2 associated with the CapitalPro note program. Investments in the CapitalPro promissory  
3 notes presented a number of inherent risks including the fact that CapitalPro could fail  
4 and/or declare bankruptcy without a sufficiently funded collateral account, thereby  
5 jeopardizing the investors' entire principal. The notes ranged from 12 to 60 months in  
6 maturity, and offered varying interest rates ranging from 8% to 12% per annum, depending  
7 on the maturity date of the note. The minimum investment amount allowed in connection  
8 with the CapitalPro promissory note program was \$10,000.

9 10. In May 2001, CapitalPro ceased making interest payments to investors and  
10 shortly thereafter, notified investors that it had declared bankruptcy. The bankruptcy  
11 proceedings resulted in the liquidation of all remaining assets, and the CapitalPro investors  
12 were ultimately reimbursed 1% of their original investment principal.

13 11. Johnson's clients incurred surrender charges and substantial losses.

#### 14 CONCLUSIONS OF LAW

15 1. The Director has jurisdiction over this matter.

16 2. Johnson's conduct, as alleged above, constitutes demonstrating  
17 incompetence or financial irresponsibility in the conduct of business, in violation of A.R.S. §  
18 20-295(A)(8).

19 3. Grounds exist to suspend, revoke or refuse to renew Johnson's insurance  
20 producer licenses, impose a civil penalty and/or order the licensee to provide restitution to  
21 any party injured by the licensee's action, pursuant to A.R.S. §§ 20-295(A) and (F).

#### 22 ORDER

#### 23 **IT IS ORDERED:**

24 1. The Arizona Life Insurance Producer's License of Respondent Gary Glen  
25 Johnson, license number 6661, is renewed.  
26



1 irrevocably waives his right to a hearing and to any court appeals relating to this Consent  
2 Order.

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

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

10 12/23/05  
11 \_\_\_\_\_

12 Date

10 Gary Glen Johnson  
11 \_\_\_\_\_

12 GARY GLEN JOHNSON

13  
14 COPY of the foregoing mailed this  
15 30th of December, 2005, to:

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