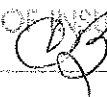


MAR 30 2012

DEPT OF INSURANCE

BY



STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

HYLTON, ROBERT DALE,

No. 11A-143-INS

Petitioner.

ORDER

On March 27, 2012, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Lewis D. Kowal, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on March 29, 2012, a copy of which is attached and incorporated by this reference. The Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Director denies Robert Dale Hylton's application for an insurance producer's license.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filling a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

1 Petitioner may appeal the final decision of the Director to the Superior Court of
2 Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal
3 must notify the Office of Administrative Hearings of the appeal within ten days after filing
4 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 30th day of March, 2012.

6
7 
8 CHRISTINA URIAS, Director
9 Arizona Department of Insurance

10 COPY of the foregoing mailed this
11 30th day of March, 2012 to:

12 Mary Kosinski, Executive Assistant for Regulatory Affairs
13 Mary Butterfield, Assistant Director
14 Catherine O'Neil, Consumer Legal Affairs Officer
15 Steven Fromholtz, Licensing Director
16 Arizona Department of Insurance
17 2910 North 44th Street, Suite 210
18 Phoenix, Arizona 85018

19 Alyse Meislik
20 Assistant Attorney General
21 1275 West Washington Street
22 Phoenix, Arizona 85007-2926

23 Office of Administrative Hearings
24 1400 West Washington, Suite 101
25 Phoenix, Arizona 85007

26 Robert Dale Hylton
10400 North 25th Avenue, Suite 200
Phoenix, Arizona 85021
Petitioner

Robert Dale Hylton
P.O. Box 5955
Glendale, Arizona 85312
Petitioner

27 
28 Curvey Burton

MAR 29 2012

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DIRECTOR'S OFFICE
INSURANCE DEPT.

In the Matter of:

No. 11A-143-INS

HYLTON, ROBERT DALE

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: March 14, 2012

APPEARANCES: Assistant Attorney General Alyse Meislik on behalf of the Arizona Department of Insurance; Robert Dale Hylton on his own behalf

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

1. On September 9, 2011, Robert Dale Hylton ("Petitioner") filed an application for a producer's license ("Application") with the Arizona Department of Insurance ("Department").
2. Petitioner answered "No" to Question 2 on the Application ("Question 2"), which asked: "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?" See Exhibit 1.
3. On November 1, 2011, the Department denied the Application based on the grounds set forth in A.R.S. § 20-295(A)(8) and A.R.S. § 20-295(A)(9) [that Petitioner submitted incomplete, incorrect, misleading, or materially untrue information during the application process and that previously he had his Arizona insurance license revoked]. See Exhibit 2.
4. On November 18, 2011, Petitioner appealed the Department's denial of the Application, resulting in the instant matter being brought before the Office of Administrative Hearings, an independent State agency. See Exhibit 3.
5. On or about January 15, 2002, Petitioner consented to an Order to Cease and Desist, Order of Restitution and Order for Administrative Penalties entered by the

1 Arizona Corporation Commission ("ACC"). See *In the Matter of Robert Dale Hylton*,
2 Decision No. 64343 of Docket No. S-03394A-01-0000. See Exhibit 6.

3 6. The above-mentioned Order ("AAC Consent Order") contains findings of fact and
4 conclusions of law reflecting that Petitioner (i) offered and sold unregistered securities
5 worth at least \$812,972.00 to investors in Arizona from 1998 through 2000; (ii) failed to
6 provide full disclosure regarding the risk of the investment; (iii) failed to disclose his
7 lack of due diligence; (iv) sold securities in the form of cash ticket machines offered by
8 World Cash Providers, LLC ("World Cash") together with service agreements; and (v)
9 represented that the cash ticket machines would be delivered within 30 or 60 days of
10 the completed contract when many of the machines that were purchased were never
11 delivered or placed in service.

12 7. Petitioner was ordered in the ACC Consent Order to cease and desist from
13 selling unregistered securities and, along with the others named, ordered Petitioner to
14 pay restitution of \$227,554.75 plus 10% interest to investors, and ordered Petitioner to
15 pay a civil penalty in the amount of \$25,000.00.

16 8. On October 28, 2002, the Arizona State Board of Accountancy ("Board") *In the*
17 *Matter of: Certified Public Accountant, Certificate No. 5481 Issued to: Robert Dale*
18 *Hylton*, Docket No. 02A-02014-ACY, revoked Petitioner's CPA certificate. See Exhibit
19 7. In its Order, the Board relied upon the ACC Consent Order, and found that
20 Petitioner's acts constituted discreditable acts and unprofessional conduct.

21 9. On April 11, 2003, *In the Matter of Robert Dale Hylton dba Financial Design*
22 *Concepts*, Docket No. 03A-026-INS, the Director of the Department issued an Order
23 adopting the Findings of Fact and Conclusions of Law issued by an administrative law
24 judge and the Director revoked Petitioner's insurance license. See Exhibit 5.

25 10. The Decision issued by the Administrative Law Judge in Docket No. 03A-026-
26 INS contained the following findings: (i) that Petitioner admitted to the allegations set
27 forth in the March 2003 Notice of Hearing that was issued in Docket No. 3A-026-INS,
28 which included among other allegations that Petitioner continued to offer and sell the
29 securities subject to the ACC Consent Order after the ACC found that the offer and sale
30 of those securities violated the Arizona Securities Act; (ii) Petitioner told investors that

1 their equipment would be delivered within 30 to 60 days of their completed contract
2 when in fact many of the machines were never delivered or placed in service; (iii)
3 Petitioner represented to investors that the World Cash investments were safe, but as
4 of the date of the ACC Consent Order, no investor had received the principal back from
5 his or her investment; (iv) Petitioner admitted that he failed to disclose all of the risks of
6 these investments; and (v) Petitioner consented to the revocation of his insurance
7 license.

8 11. Stephen Fromholtz ("Mr. Fromholtz"), the Producer Licensing Administrator for
9 the Department testified:

10 a. Petitioner's response to Question No. 2 was inaccurate in light of the
11 written statement and the ACC Consent Order attached to the Application.

12 b. Petitioner certified that the information and attachments provided in
13 connection with the Application were true and complete. Exhibit 1 at AG004.
14 However, Petitioner's written statement attached to the Application was general
15 and vague in nature.

16 c. From the information presented by Petitioner, it appeared that Petitioner
17 was involved in an action taken by the California Corporation Commission with
18 respect to World Cash. However, without more detailed information and/or
19 documentation from the California Corporation Commission regarding such
20 action, the Department did not have enough information to determine how and to
21 what extent Petitioner was involved in such administrative matter.

22 d. Petitioner stated in his attached written statement that he returned his
23 Arizona insurance license to the Department and returned his CPA certificate to
24 the Board. The Department discovered that Petitioner's insurance agent license
25 had been revoked and Petitioner's CPA certificate had been revoked.

26 12. At hearing, Petitioner attempted to explain how he conducted due diligence
27 before he became involved with World Cash. The Administrative Law Judge ruled that
28 Petitioner could not litigate the facts underlying the ACC Consent Order or the
29 decisions revoking his Arizona insurance license and CPA certificate as he
30 acknowledged that he had not appealed those decisions.

1 13. Petitioner reported that the restitution ordered in the ACC Consent Order has
2 been fully paid. In support of such testimony, Petitioner presented a Notice of
3 Satisfaction of Judgment issued in *Gloria Ross and Rosy Limited v. Robert Dale Hyllton,*
4 *Sr.*, Maricopa County Superior Court Case No. CV2005-015288 ("Case No. 015288").
5 See Exhibit Z. Petitioner testified that the judgment creditors in that case were
6 investors that were involved in World Cash and included in the restitution order of the
7 ACC.

8 14. Petitioner testified that he paid \$144,000.00 to satisfy the above-mentioned
9 judgment and the remaining restitution had been discharged in a personal bankruptcy
10 proceeding. Petitioner also represented that the civil penalties ordered in the ACC
11 Consent Order were discharged in the bankruptcy proceeding. Despite such
12 representations, Petitioner did not produce any documents from the bankruptcy
13 proceeding to corroborate his testimony.

14 15. Question 3 on the Application asked: "Has any demand been made or judgment
15 rendered against you or any business in which you are or were an owner, partner,
16 officer or director, or member or manager of a limited liability company, for overdue
17 monies by an insurer, insured or producer, or have you ever been subject to a
18 bankruptcy proceeding? Do not include personal bankruptcies, unless they involve
19 funds held on behalf of others[.]"

20 16. Question 5 on the Application asked: "Are you currently a party to, or have you
21 ever been found liable in, any lawsuit, arbitration or mediation proceeding involving
22 allegations of fraud, misappropriation or conversion of funds, misrepresentation or
23 breach of fiduciary duty?"

24 17. Neither Case No. 015288 nor the judgment entered in that case was ever
25 reported to the Department. Questions 3 and 5 on the Application were answered
26 "No" by Petitioner when, in light of Petitioner's testimony and evidence presented at
27 hearing, those questions should have been answered "Yes".

28 18. Petitioner acknowledged that the above-mentioned civil action contained
29 allegations involving fraud. At the time when the judgment was entered against him,
30 the ACC restitution order was in effect and Petitioner held monies on behalf of others.

1 19. Petitioner presented character reference letters in support of the issuance of a
2 license. See Exhibits T, U, V, W, X, and Y. The letters were given marginal weight
3 because the authors of the letters were not present and could not be questioned by the
4 Department's counsel or the Administrative Law Judge. Moreover, it is unclear from the
5 letters the extent of knowledge the authors had regarding the ACC Consent Order, the
6 activities of Petitioner underlying the ACC Consent Order, or the revocation of his
7 insurance license or CPA certificate.

8 CONCLUSIONS OF LAW

9 1. Petitioner bears the burden of proof and the standard of proof on all issues is by
10 a preponderance of the evidence. A.A.C. R2-19-119.

11 2. A preponderance of the evidence is "[e]vidence of greater weight or more
12 convincing than the evidence which is offered in opposition to it; that is, evidence which
13 as a whole shows that the fact sought to be proved is more probable than not."

14 BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).

15 3. Petitioner's conduct, as described above, established that he provided incorrect,
16 misleading, incomplete, or materially untrue information in the Application, within the
17 meaning of A.R.S. § 20-295(A)(1).

18 4. Petitioner's conduct that gave rise to the ACC Consent Order constitutes
19 fraudulent or dishonest practices, untrustworthiness and financial irresponsibility in the
20 conduct of business within the meaning of A.R.S. § 20-295(A)(8).

21 5. Petitioner's revocation of his Arizona insurance license in 2003 constitutes a
22 basis for the denial of the Application pursuant to A.R.S. § 20-295(A)(9).

23 6. The serious nature of the conduct that gave rise to the ACC Consent Order and
24 the revocation of Petitioner's insurance license and CPS certificate, Petitioner's general
25 and inaccurate statements, and his failure to provide documentation to the Department
26 when he submitted the Application, as well as incorrectly answering questions on the
27 Application, support the Department's denial of the Application. Consequently, the
28 weight of the evidence of record established that the Department had sufficient grounds
29 to deny the Application pursuant to A.R.S. §§ 20-295(A), and exercised that discretion
30 in a reasonable manner.

1 7. Petitioner failed to prove by a preponderance of the evidence that the
2 Department's denial of the Application should be reversed.

3 **ORDER**

4 Based on the above, the Department's denial of the Application is affirmed.

5
6 *In the event of certification of the Administrative Law Judge Decision by the*
7 *Director of the Office of Administrative Hearings, the effective date of the Order will be 5*
8 *days from the date of that certification.*

9
10 Done this day, March 27, 2012.

11
12 /s/ Lewis D. Kowal
13 Administrative Law Judge

14
15 Transmitted electronically to:

16
17 Christina Urias, Director
18 Department of Insurance
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