

JAN 17 2013

DEPT OF INSURANCE  
BY STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

**FINE, TYSON HEATH,**  
(Arizona License # 105369)  
(National Producer # 1918574)  
and **FINE RETIREMENT SERVICES, LLC**  
(Arizona License # 877970)

No. 12A-120-INS

ORDER

Respondents.

On January 8, 2013, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on January 9, 2013, 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 Conclusion Law.
2. The Director revokes the Arizona producer license (# 105369) of **Tyson Heath Fine** effective immediately.
3. The Director revokes the Arizona producer license (#877970) of **Fine Retirement Services, LLC** effective immediately.

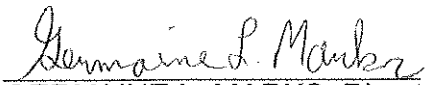
**NOTIFICATION OF RIGHTS**

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondents may request a rehearing with respect to this order by filling a written motion with the Director the Department of Insurance within 30 days of the date of this Order, setting forth the

1 for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary  
2 to request a rehearing before filing an appeal to Superior Court.

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

7 DATED this 16<sup>th</sup> day of January, 2013.

8  
9   
10 GERMAINE L. MARKS, Director  
Arizona Department of Insurance

11  
12 COPY of the foregoing mailed this  
13 17<sup>th</sup> day of January, 2013 to:

14 Tyson Heath Fine  
15 c/o Bradley Judicial Complex/Bradley County Jail  
2290 Blythe Ave.  
16 Cleveland, TN 37311  
Respondent

17 Tyson Heath Fine  
18 P.O. Box 23148  
Chattanooga, TN 37422  
19 Respondent

20 Tyson Heath Fine  
21 C/O Fine Retirement Services LLC  
19357 N. Madison Rd.  
22 Maricopa, AZ 85239  
Respondent

23 Tyson Heath Fine  
24 c/o Hamilton County Jail  
601 Walnut Street  
25 Chattanooga TN, 37402  
26 Respondent

1 Tyson Heath Fine  
195 Armstrong Ferry Road, #1  
2 Dayton, TN 37321  
3 Respondent

4 Fine Retirement Services, LLC  
P.O. Box 93464  
5 Phoenix, AZ 85070  
6 Respondent

7 Fine Retirement Services, LLC  
1300 Ridenour Blvd NW Ste 100  
8 Kennesaw, GA 30152-4528  
Respondent

9 Mary Kosinski, Executive Assistant for Regulatory Affairs  
10 Mary Butterfield, Assistant Director  
Catherine O'Neil, Consumer Legal Affairs Officer  
11 Steven Fromholtz, Licensing Director  
Charles Gregory, Investigations Supervisor  
12 Randy Markham, Investigator  
Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
13 Phoenix, Arizona 85018

14 Alyse Meislik  
Assistant Attorney General  
15 1275 West Washington Street  
Phoenix, Arizona 85007-2926

16 Office of Administrative Hearings  
17 1400 West Washington, Suite 101  
Phoenix, Arizona 85007

18   
19 Curvey Burton

20  
21  
22  
23  
24  
25  
26

JAN 9 2013

DIRECTOR'S OFFICE  
INSURANCE DEPT.

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In The Matter Of:

No. 12A-120-INS

FINE, TYSON HEATH  
(Arizona License # 105369)  
(National Producer # 1918574)  
and FINE RETIREMENT SERVICES, LLC  
(Arizona License # 877970)

ADMINISTRATIVE LAW JUDGE  
DECISION

Respondents.

**HEARING:** December 10, 2012

**APPEARANCES:** No one appeared for Respondents; Assistant Attorney  
General Alyse Meislik appeared for the Department of Insurance

**ADMINISTRATIVE LAW JUDGE:** Thomas Shedden

**FINDINGS OF FACT**

1. On October 18, 2012, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 1:00 p.m. December 10, 2012, at the Office of Administrative Hearings.
2. No representative appeared for either Respondent Tyson Heath Fine or Respondent Fine Retirement Services, LLC and the matter was convened in their absence at about 1:20 p.m.<sup>1</sup>
3. The Department presented the testimony of its investigator Randy Markham.

<sup>1</sup> Mr. Fine had been informed that he could appear by telephone provided that he called the Office of Administrative Hearings ("OAH") at the scheduled hearing time. On December 17, 2012, Mr. Fine filed with the OAH a letter that the Administrative Law Judge ("ALJ") construed as a Motion to Reopen the Record or, in the alternative, a Motion to Reconsider the November 21, 2012 Order Denying Continuance. In response to that Motion, the ALJ reopened the record in this matter for the limited purpose of allowing the Department enough time to respond to Mr. Fine's Motion before the Administrative Law Judge Decision was due. On December 28, 2012, the Department filed its Response, in which it objected to reopening the record. In an Order dated December 31, 2012, the undersigned ALJ denied Mr. Fine's Motion.

1 4. Mr. Fine holds license No. 105369 and Fine Retirement Services, LLC holds  
2 license No. 877970, both of which were issued by the Department.

3 5. Mr. Fine's license expired on October 31, 2012.

4 6. Fine Retirement Services, LLC's license is due to expire on November 30,  
5 2014.

6 7. Mr. Fine is the sole officer and member of Fine Retirement Services, LLC and  
7 he is its Designated Responsible Licensed Producer.

8 8. Mr. Fine accepted \$21,000 from a client with the understanding that the money  
9 would be invested for the client's benefit. Mr. Fine did not invest the money, but rather  
10 used it for personal expenses. Based on his actions, on May 22, 2012, Mr. Fine  
11 pleaded guilty to, and was convicted of Theft of Property, a Class D Felony in the State  
12 of Tennessee.

13 9. Mr. Fine was sentenced to two years in the Tennessee Department of  
14 Corrections, with the sentence suspended in favor of two years probation.

15 10. On December 10, 2012, officials in Tennessee informed Mr. Markham that as of  
16 that date, Mr. Fine was in jail.

17 11. Mr. Fine did not report to the Department that he had been subject to criminal  
18 prosecution.

19 12. Mr. Fine's address of record with the Department is 19357 North Madison Road  
20 in Maricopa Arizona, which is also the address of record for Fine Retirement Services,  
21 LLC.

22 13. Mr. Markham mailed certified documents to Mr. Fine's address of record, but  
23 these documents were returned as not deliverable.

24 14. Mr. Fine's Probation Order, dated May 22, 2012, shows his address as 195  
25 Armstrong Ferry Road in Dayton Tennessee.

26 15. Mr. Fine did not inform the Department that he had changed his residential or  
27 business addresses.

28 16. The Department requests that Mr. Fine's and Fine Retirement Services, LLC's  
29 licenses be revoked.

30 **CONCLUSIONS OF LAW**

1. The Department bears the burden of persuasion. A.R.S. § 41-1092.07(G).

2. The burden of proof at an administrative hearing falls to the party asserting a claim, right or entitlement. The standard of proof is that of the preponderance of the evidence. A.A.C. R2-19-119.

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

BLACK’S LAW DICTIONARY 1182 (6<sup>th</sup> ed. 1990).

4. Mr. Fine was convicted of a felony, which is a violation of A.R.S. § 20-295(A)(6).

5. The facts underlying Mr. Fine’s felony conviction demonstrate that he used fraudulent or dishonest practices, demonstrating untrustworthiness in the conduct of business, which is a violation of A.R.S. § 20-295(A)(8).

6. Mr. Fine’s failure to inform the Department that he was subject to criminal prosecution is a violation of A.R.S. § 20-301(B).

7. Mr. Fine’s failure to inform the Department of a change in his business and residential addresses are violations of violation of A.R.S. § 20-286(C)(1).

8. Based on Mr. Fine’s proven violations of A.R.S. § 20-295(A), the Department has the authority to revoke Mr. Fine’s license. A.R.S. § 20-295(H). Considering the nature of Mr. Fine’s violations, his license No. 105369 should be revoked.

9. Based on Mr. Fine’s proven violations of A.R.S. § 20-295(A), the Department has the authority to revoke Fine Retirement Services, LLC’s license. A.R.S. § 20-295(B). Considering the nature of Mr. Fine’s violations and that there are no other members of Fine Retirement Services LLC, its license No. 877970 should be revoked.

**ORDER**

**IT IS ORDERED** that Tyson Heath Fine’s license No. 105369 is revoked;

**IT IS FURTHER ORDERED** that Fine Retirement Services, LLC’s license No. 877970 is revoked.

*In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order will be the date of that certification.*

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

Done this day, January 8, 2013.

/s/ Thomas Shedden  
Thomas Shedden  
Administrative Law Judge

Transmitted electronically to:

Germaine L. Marks, Director  
Department of Insurance