STATE OF ARIZONA FILED

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STATE OF ARIZONA

DEPARTMENT OF INSURANCE BY

DEPARTMENT OF INSURANCE

In the Matter of:

JOHNSON, BRYAN ALAN (National Producer No. 17146224) (Legacy License ID 1066411) and

IPLAN HEALTH GROUP, LLC (National Producer No. 17184861) (License Number 1800011846) (Legacy License ID 1069091)

Respondents.

No. 16A-071-INS

ORDER

On June 5, 2017, the Office of Administrative Hearings, through Administrative Law Judge Suzanne Marwil, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on June 5, 2017, a copy of which is attached and incorporated by this reference. The Interim Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

- The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law except to correct the following statutory references:
 - a. Findings of Fact, Paragraph 17, change reference from A.R.S. § 20-298(C)(1) to A.R.S. § 20-298(C).
 - b. Conclusions of Law, Paragraph 9, change reference from A.R.S. § 20-287(A) and (C) to A.R.S. § 20-298(A) and (C).
- The Interim Director revokes the Arizona non-resident insurance producer license, of Bryan Alan Johnson effective immediately.

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1 3. The Interim Director revokes the Arizona non-resident insurance producer 2 license, of IPLAN Health Group, LLC effective immediately. 3 4 **NOTIFICATION OF RIGHTS** 5 Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondents may 6 request a rehearing with respect to this order by filing a written motion with the Interim 7 Director of the Department of Insurance within 30 days of the date of this Order, setting 8 forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is 9 not necessary to request a rehearing before filing an appeal to Superior Court. 10 Respondents may appeal the final decision of the Interim Director to the Superior 11 Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an 12 appeal must notify the Office of Administrative Hearings of the appeal within ten days after 13 filing the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B). DATED this 81h day of fune, 2017. 14 15 Leslie R. Hess. Interim Director 16 Arizona Department of Insurance 17 COPY of the foregoing mailed/delivered this 13 day of _______, 2017, to: 18 19 Bryan Alan Johnšon 101 Plaza Real S., Suite 201 20 Boca Raton, Florida 33432-4866 21 Respondent 22 Bryan Alan Johnson 9754 Cobblestone Creek Dr. 23 Boynton Beach, FL 33472-4454 Respondent 24

Bryan Alan Johnson

BJohnson2112@icloud.com

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1 2	Respondent IPLAN Health Group, LLC 5604 Arbor Club Way, Apt. 3
3	Boca Raton, FL 3343 Respondent
4	IPLAN Health Group, LLC
5 6	101 Plaza Real S., Suite 201 Boca Raton, Florida 33432-4866 Respondent
7	Mary Kosinski, Regulatory Legal Affairs Officer
8	Catherine O'Neil, Consumer Legal Affairs Officer Steven Fromholtz, Assistant Director – Consumer Protection Division Wendy Greenwood, Investigator
9	Arizona Department of Insurance 2910 North 44th Street, Suite 210
10	Phoenix, Arizona 85018
11	Liane Kido Assistant Attorney General
12	1275 West Washington Street Phoenix, Arizona 85007-2926
13	Office of Administrative Hearings
14	1400 West Washington, Suite 101 Phoenix, Arizona 85007
15	Majdene Scheiner
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

JUN 05 2017

DEPT. OF INSURANCE BY: WALK

In the Matter of:

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Johnson, Bryan Alan (Arizona License No. 1066411) (National Producer No. 17146224) and

IPLAN Health Group LLC (Arizona License No. 1069091) (National Producer No. 17184861),

Respondents

No. 16A-071-INS

ADMINISTRATIVE LAW JUDGE DECISION

HEARING: May 24, 2017

APPEARANCES: Respondents did not appear. The Arizona Department of Insurance was represented by Assistant Attorney General Liane C. Kido.

ADMINISTRATIVE LAW JUDGE: Suzanne Marwil

The issue in this matter is whether Respondents Bryan Alan Johnson's and IPLAN Health Group LLC's non-resident insurance producer's licenses should be disciplined. Based on the evidence presented by the Department of Insurance (Department) and Respondents' failure to appear for the duly noticed administrative hearing, the Administrative Law Judge recommends that the Director of the Department revoke Respondent's license for the reasons set forth in the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

- 1. Respondent was issued non-resident Accident/Health and Life Insurance Producer's License No. 1066411 on June 7, 2000. This license expired on May 31, 2017. Johnson currently holds a resident license in Florida.
- 2. Johnson's business and mailing addresses of record with the Department is: 101 Plaza Real S., Ste-201, Boca Raton, Florida 33432-4866. Johnson's resident address of record with the Department is

3. IPLAN Health Group, LLC ("PLAN") is a Florida limited liability company and is licensed as an Arizona non-resident insurance producer, license number 1069091, which expires on February 28, 2018. IPLAN held a resident license in Florida.

- 4. IPLAN's business and mailing address of record with the Department is: 5604 Arbor Club Way, Apt. 3, Boca Raton, Florida 33433.
- 5. Johnson is IPLAN's owner, manager and Designated Responsible Licensed Producer of record per the entity's non-resident license application submitted to the Department on February 6, 2014. On or about April 29, 2016, Johnson voluntarily dissolved IPLAN in Florida. IPLAN no longer holds a resident license in Florida.
- 6. On or about June 9, 2015, IPLAN filed its "Annual Report" with the Florida Division of Corporations reflecting IPLAN's new business and mailing address: 101 Plaza RealSouth, Suite 201, Boca Raton, FL 33433.
 - 7. IPLAN failed to report its new address to the Department within 30 days.
- 8. On September 2, 2015, the Department received a complaint from the Florida Department of Financial Services ("FDFS"), which investigated IPLAN for utilizing unlicensed staff members to transact health insurance business with out-of-state consumers.
- 9. FDFS substantiated the unlicensed activity but closed its case on August 26, 2015, because all identified consumers resided out-of-state. FDFS referred its case to all affected states where the unlicensed activity occurred, including Arizona. Anthony L. Holliman ("Holliman") was identified as the sole Arizona consumer affected.
- 10. The FDFS Case Report specified that Robert Hodovanich ("Hodovanich) was IPLAN unlicensed employee who transacted the sale of health insurance to Holliman. Hodovanich does not and did not hold an insurance producer's license in Arizona.
- 11. The FDFS Case Report documented that IPLAN paid Hodovanich a \$35.75 commission for his work on the Holliman transaction.
- 12. The Department confirmed with Holliman that he only spoke to Hodovanich during the purchase of an "NCE [National Congress of Employers) National Health 100 Family Limited Benefit Plan," policy number UL 10032013.

- 13. On November 23, 2015, the Arkansas Insurance Department issued an Emergency Suspension Order, A.I.D. No. 2015-84, immediately suspending Johnson and IPLAN's Arkansas non-resident producer licenses based on the FDFS investigation.
- 14. On January 27, 2016, the Arkansas Insurance Department revoked Johnson and IPLAN's Arkansas non-resident producer licenses "for knowingly accepting insurance business from an individual who is not licensed."
- 15. On March 1, 2016, the Georgia Insurance Department issued a Consent Order, case number 20151000249, wherein Georgia ordered and Johnson consented to the surrender of his Georgia Insurance Agent License, number 2942008.
- 16. Johnson and PLAN failed to report the Arkansas administrative action to the Department within 30 days after the final disposition of the matter. Johnson failed to report the Georgia administrative action to the Department' within 30 days after the final disposition of the matter.
- 17. On April 10, 2017, the Department issued a Notice of Hearing and Complaint on its intent to penalize Respondents non-resident insurance producer's license under A.R.S. § 20-287(A)(1), A.R.S. § 20-295(A)(2), A.R.S. § 20-295(A)(8), A.R.S. §20-298(C)(1) and A.R.S. § 20-301(A).
- 18. The Department mailed the Notice of Hearing to Respondents at their business and mailing addresses of record.
- 19. Although the beginning of the duly noticed hearing was delayed 20 minutes to allow Respondents additional travel time, they did not appear personally or through a duly authorized representative, contact the Office of Administrative Hearings to request a continuance or that the time for the hearing be further delayed, or present any evidence at the hearing to defend their non-resident insurance producer's licenses.
- 20. The Department appeared through its attorney and presented the testimony of Wendy Greenwood, investigator for the Department.

CONCLUSIONS OF LAW

- 1. This matter lies within the jurisdiction of the Department. See A.R.S. §§ 20-281 to 302.
- 2. The Department bears the burden of proof and must establish cause to revoke or otherwise penalize Respondents' non-resident insurance producer's licenses by

- 3. "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not." MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960). A preponderance of the evidence is "[t]he greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other." BLACK'S LAW DICTIONARY at 1220 (8th ed. 1999).
 - 4. A.R.S. § 20-287 provides, in relevant part:

- A. Unless the director denies a license pursuant to section 20-295, the director shall issue a nonresident person a nonresident insurance producer license if all of the following apply:
- 1. The person is currently licensed as a resident and in good standing in the person's home state.
- 5. The evidence established that IPLAN is now dissolved, is no longer in Florida and lacks a resident license, which a violation of A.R.S. § 20-287(A)(1).
 - 6. A.R.S. § 20-295(A) provides, in pertinent part:
 - A. The director may deny, suspend for not more than twelve months, revoke or refuse to renew an insurance producer's license or may impose a civil penalty in accordance with subsection F of this section or any combination of actions for any one or more of the following causes:
 - 2. Violating any provision of this title or any rule, subpoena or order of the director.
 - 8. Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.
- 7. Respondents' documented use of Hodovanich, an unlicensed individual, to sell insurance to Holliman constitutes fraud, untrustworthiness and incompetence which violates A.R.S. § 20-295(A)(2) and (8).
 - 8. A.R.S. § 20-298 provides in pertinent part:

A. An insurer or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

- C. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this article at the time of the sale, solicitation or negotiation and was so licensed at that time.
- 9. Respondents paid a commission to Hodovanich, who was not licensed to sell insurance in Arizona, for his work on the Holliman transaction, thereby violating A.R.S. §§ 20-287(A) and (C).
 - 10. A.R.S. § 20-286 provides in relevant part:
 - C. A licensee shall inform the director in writing within thirty days of any change in the licensee's:
 - 1. Residential, business or e-mail address
- 11. Respondents failed to inform the Department of IPlan's change of address, which violated A.R.S. § 20-286(C)(1).
 - 12. A.R.S. § 20-301 provides in pertinent part:
 - A. Within thirty days after the final disposition of the matter, an insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state. The report shall include a copy of the order, consent to order or other relevant dispositive document.
- 13. Respondents failure to report to the Department, within 30 days after the final disposition of the matter, the administrative action taken against Respondents' licenses in Georgia and Arkansas was a violation of A.R.S. § 20-301(A).
- 14. The Department therefore has borne its burden to establish cause to revoke Respondents' non-resident insurance producer's licenses.

RECOMMENDED ORDER

Based on the foregoing, it is recommended that the Director of the Department revoke Respondents' non-resident insurance producer's license nos. 1066411 and 1069091.1

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 five days from the date of that certification.

Done this day, June 5, 2017.

/s/ Suzanne Marwil Administrative Law Judge

Transmitted electronically to:

Leslie R. Hess, Interim Director Arizona Department of Insurance

¹ The Arizona license numbers recently changed to the following National Producer numbers: 17146224 and 17184861 respectively.