

JUN 12 2017

STATE OF ARIZONA

DEPARTMENT OF INSURANCE
BY MEK

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)

No. 16A-071-INS

ORDER

Respondents.

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:

1. 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).
2. The Interim Director revokes the Arizona non-resident insurance producer license, of **Bryan Alan Johnson** effective immediately.

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1 Respondent
IPLAN Health Group, LLC
2 5604 Arbor Club Way, Apt. 3
Boca Raton, FL 3343
3 Respondent

4 IPLAN Health Group, LLC
5 101 Plaza Real S., Suite 201
Boca Raton, Florida 33432-4866
6 Respondent

7 Mary Kosinski, Regulatory Legal Affairs Officer
Catherine O'Neil, Consumer Legal Affairs Officer
8 Steven Fromholtz, Assistant Director – Consumer Protection Division
Wendy Greenwood, Investigator
9 Arizona Department of Insurance
2910 North 44th Street, Suite 210
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16 Maidene Scheiner

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JUN 05 2017

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT. OF INSURANCE

BY: MEK

In the Matter of:

No. 16A-071-INS

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

ADMINISTRATIVE LAW JUDGE

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

DECISION

Respondents

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 [REDACTED]

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

4 4. IPLAN's business and mailing address of record with the Department is:
5 5604 Arbor Club Way, Apt. 3, Boca Raton, Florida 33433.

6 5. Johnson is IPLAN's owner, manager and Designated Responsible
7 Licensed Producer of record per the entity's non-resident license application submitted to
8 the Department on February 6, 2014. On or about April 29, 2016, Johnson voluntarily
9 dissolved IPLAN in Florida. IPLAN no longer holds a resident license in Florida.

10 6. On or about June 9, 2015, IPLAN filed its "Annual Report" with the Florida
11 Division of Corporations reflecting IPLAN's new business and mailing address: 101 Plaza
12 RealSouth, Suite 201, Boca Raton, FL 33433.

13 7. IPLAN failed to report its new address to the Department within 30 days.

14 8. On September 2, 2015, the Department received a complaint from the
15 Florida Department of Financial Services ("FDFS"), which investigated IPLAN for utilizing
16 unlicensed staff members to transact health insurance business with out-of-state
17 consumers.

18 9. FDFS substantiated the unlicensed activity but closed its case on August
19 26, 2015, because all identified consumers resided out-of-state. FDFS referred its case
20 to all affected states where the unlicensed activity occurred, including Arizona. Anthony
21 L. Holliman ("Holliman") was identified as the sole Arizona consumer affected.

22 10. The FDFS Case Report specified that Robert Hodovanich ("Hodovanich")
23 was IPLAN unlicensed employee who transacted the sale of health insurance to Holliman.
24 Hodovanich does not and did not hold an insurance producer's license in Arizona.

25 11. The FDFS Case Report documented that IPLAN paid Hodovanich a \$35.75
26 commission for his work on the Holliman transaction.

27 12. The Department confirmed with Holliman that he only spoke to Hodovanich
28 during the purchase of an "NCE [National Congress of Employers) National Health 100 -
29 Family Limited Benefit Plan," policy number UL 10032013.
30

1 a preponderance of the evidence. See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119; see
2 also *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

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

11 4. A.R.S. § 20-287 provides, in relevant part:

12 A. Unless the director denies a license pursuant to section 20-295, the
13 director shall issue a nonresident person a nonresident insurance producer
license if all of the following apply:

14 1. The person is currently licensed as a resident and in good standing in the
15 person's home state.

16 5. The evidence established that IPLAN is now dissolved, is no longer in
17 Florida and lacks a resident license, which is a violation of A.R.S. § 20-287(A)(1).

18 6. A.R.S. § 20-295(A) provides, in pertinent part:

19 A. The director may deny, suspend for not more than twelve months,
20 revoke or refuse to renew an insurance producer's license or may impose
21 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:

22
23 2. Violating any provision of this title or any rule, subpoena or order of the
director.

24
25 8. Using fraudulent, coercive or dishonest practices, or demonstrating
26 incompetence, untrustworthiness or financial irresponsibility in the conduct
of business in this state or elsewhere.

27 7. Respondents' documented use of Hodovanich, an unlicensed individual, to
28 sell insurance to Holliman constitutes fraud, untrustworthiness and incompetence which
29 violates A.R.S. § 20-295(A)(2) and (8).

30 8. A.R.S. § 20-298 provides in pertinent part:

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

5 C. Renewal or other deferred commissions may be paid to a person for
6 selling, soliciting or negotiating insurance in this state if the person was
7 required to be licensed under this article at the time of the sale, solicitation
8 or negotiation and was so licensed at that time.

9 9. Respondents paid a commission to Hodovanich, who was not licensed to
10 sell insurance in Arizona, for his work on the Holliman transaction, thereby violating A.R.S.
11 §§ 20-287(A) and (C).

12 10. A.R.S. § 20-286 provides in relevant part:

13 C. A licensee shall inform the director in writing within thirty days of any
14 change in the licensee's:

15 1. Residential, business or e-mail address

16 11. Respondents failed to inform the Department of IPlan's change of address,
17 which violated A.R.S. § 20-286(C)(1).

18 12. A.R.S. § 20-301 provides in pertinent part:

19 A. Within thirty days after the final disposition of the matter, an insurance
20 producer shall report to the director any administrative action taken against
21 the producer in another jurisdiction or by another governmental agency in
22 this state. The report shall include a copy of the order, consent to order or
23 other relevant dispositive document.

24 13. Respondents failure to report to the Department, within 30 days after the
25 final disposition of the matter, the administrative action taken against Respondents'
26 licenses in Georgia and Arkansas was a violation of A.R.S. § 20-301(A).

27 14. The Department therefore has borne its burden to establish cause to revoke
28 Respondents' non-resident insurance producer's licenses.

29 **RECOMMENDED ORDER**

1 Based on the foregoing, it is recommended that the Director of the Department
2 revoke Respondents' non-resident insurance producer's license nos. 1066411 and
3 1069091.¹

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

7 Done this day, June 5, 2017.

8 /s/ Suzanne Marwil
9 Administrative Law Judge

10 Transmitted electronically to:

11 Leslie R. Hess, Interim Director
12 Arizona Department of Insurance
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¹ The Arizona license numbers recently changed to the following National Producer numbers: 17146224 and 17184861 respectively.