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DEPT OF INSURANCE
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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

HARVIE (IV), JAMES
(Arizona License No. 1140931)
(National Producer No. 17877251)

No. 16A-091-INS

ORDER

Respondent.

On November 22, 2016, the Office of Administrative Hearings, through Administrative Law Judge Velva Moses-Thompson, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on November 23, 2016, 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:

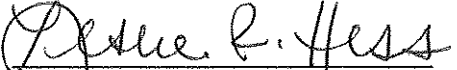
1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director revokes the Arizona resident insurance producer license, No. 1140931, of **James Harvie, IV** effective immediately.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing with respect to this order by filing a written motion with the Interim 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 Respondent may appeal the final decision of the Interim Director to the Superior
2 Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an
3 appeal must notify the Office of Administrative Hearings of the appeal within ten days after
4 filing the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 28th day of November, 2016.

6
7 
8 Leslie R. Hess, Interim Director
Arizona Department of Insurance

9
10 COPY of the foregoing mailed this
30th day of November, 2016 to:

11 James Harvie IV
12 4620 South Dante Circle
13 Mesa, AZ 85212
Respondent

14 James Harvie IV
15 1585 N. 113th Ave., Suite 100
Avondale, AZ 85392-3938
Respondent

16 Mary Kosinski, Regulatory Legal Affairs Officer
17 Catherine O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Assistant Director – Consumer Protection Division
18 Arizona Department of Insurance
2910 North 44th Street, Suite 210
19 Phoenix, Arizona 85018

20 Liane Kido
Assistant Attorney General
1275 West Washington Street
21 Phoenix, Arizona 85007-2926

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

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25 
26 Maidene Scheiner

NOV 23 2016

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT. OF INSURANCE

BY: MEK

In the Matter of:

No. 16A-091-INS

Harvie, James (IV)
(Arizona License # 1140931),
(National Producer # 17877251),

ADMINISTRATIVE LAW JUDGE

Respondent.

DECISION

HEARING: November 3, 2016

APPEARANCES: Liane C. Kido, Esq. appeared on behalf of the Arizona Department of Insurance. Respondent did not appear.

ADMINISTRATIVE LAW JUDGE: Velva Moses-Thompson

FINDINGS OF FACT

1. On September 23, 2016, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 1:00 p.m. on November 3, 2016.
2. No representative for Respondent James Harvie IV appeared at the scheduled time and the matter was convened in his absence at about 1:20 p.m.
3. On March 7, 2016, Respondent submitted to the Department an application for a resident life insurance producer's license. With the application, Respondent included a copy of his fingerprints.
4. The Department issued to Respondent License No. 1140931, which is scheduled to expire on September 30, 2019.
5. The Department forwarded Respondent's fingerprints the Arizona Department of Public Safety ("DPS") for a criminal records background check. Respondent's fingerprints were not of sufficient quality for use in conducting the background check.
6. An applicant who submits illegible fingerprints is considered by the Department to have submitted an incomplete application.

1 7. In a letter dated May 6, 2016, the Department informed Respondent that on or
2 before June 6, 2016, he was required to submit to the Department a replacement set of
3 fingerprints.

4 8. The Department did not receive from Respondent any response to its May 6,
5 2016 letter.

6 9. In a letter dated June 10, 2016, the Department informed Respondent that it was
7 preparing to initiate an administrative action against his license because he had failed to
8 submit a full set of fingerprints.

9 10. The Department's June 10, 2016 letter also informed Respondent that on or
10 before June 30, 2016, he was required to submit the replacement set of fingerprints, or
11 in the alternative, he could surrender his license.

12 11. Respondent did not submit a replacement set of fingerprints and he did not
13 surrendered his license.

14 12. The Department requested that Respondent's license be revoked.

15 CONCLUSIONS OF LAW

16 1. The Department bears the burden of persuasion. ARIZ. REV. STAT. § 41-
17 1092.07(G)(2).

18 2. The standard of proof on all issues is that of a preponderance of the evidence.
19 Ariz. Admin. Code § R2-19-119.

20 3. A preponderance of the evidence is:

21 The greater weight of the evidence, not necessarily established
22 by the greater number of witnesses testifying to a fact but by
23 evidence that has the most convincing force; superior
24 evidentiary weight that, though not sufficient to free the mind
25 wholly from all reasonable doubt, is still sufficient to incline a fair
26 and impartial mind to one side of the issue rather than the other.
27 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

28 4. With his application, Respondent was required to submit to the Department a
29 complete set of fingerprints. Respondent's submission of fingerprints did not satisfy this
30 requirement because the quality was not sufficient for DPS's use in conducting the
required background check. See ARIZ. REV. STAT. § 20-285(E)(2).

5. Because Respondent did not submit fingerprints of sufficient quality, his
application is incomplete, which is a violation of ARIZ. REV. STAT. section 20-295(A)(1).

1 6. Respondent's conduct constitutes a violation of ARIZ. REV. STAT., Title 20, which
2 provides grounds for the Director of the Department to revoke Respondent's license.
3 ARIZ. REV. STAT. § 20-295(A)(2).

4 **RECOMMENDED ORDER**

5 **IT IS ORDERED** that Respondent James Harvie IV's License No. 1140931 is
6 revoked.

7 Done this day, November 22, 2016.

8
9 /s/ Velva Moses-Thompson
10 Administrative Law Judge

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12 Transmitted electronically to:

13 Leslie R. Hess, Interim Director
14 Arizona Department of Insurance
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