

JAN 10 2018

STATE OF ARIZONA

DEPARTMENT OF INSURANCE DEPT OF INSURANCE
BY MS

In the Matter of:

KELSTROM, SEAN L
(National Producer Number 13039573)
(Legacy License Number 1103590)

and

SEAN KELSTROM INS AGENCY LLC
(National Producer Number 16679923)
(Legacy License Number 1103707)

Respondents.

No. 17A-077-INS

ORDER

On January 8, 2018, the Office of Administrative Hearings, through Administrative Law Judge Suzanne Marwil, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Interim Director of the Department of Insurance ("Interim Director") on January 8, 2018, 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 non-resident insurance producer license of **Sean Kelstrom** effective immediately.
3. The Interim Director revokes the Arizona non-resident insurance producer license of **Sean Kelstrom Ins Agency LLC** effective immediately.


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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 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.

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

DATED this 8th day of January, 2018.


Leslie R. Hess, Interim Director
Arizona Department of Insurance

COPY of the foregoing mailed this 10th day of January, 2018, to:

Sean L. Kelstrom
531 Windsor St.
Salt Lake City, UT 84102
Respondent

Sean L. Kelstrom
Sean Kelstrom Ins Agency LLC
327 W. Gordon Ave., Ste 3
Layton, UT 84041
Respondents

Sean Kelstrom
Sean Kelstrom Ins Agency LLC
67 A St., #99
Salt Lake City, UT 84103
Respondents

1 Mary Kosinski, Regulatory Legal Affairs Officer
Catherine O'Neil, Consumer Legal Affairs Officer
2 Steven Fromholtz, Assistant Director – Consumer Protection Division
Aqueelah Currie, Licensing
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Arizona Department of Insurance
4 2910 North 44th Street, Suite 210
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Liane Kido
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11 *Maidene Scheiner*
12 Maidene Scheiner

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JAN 08 2018

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 17A-077-INS

DEPT. OF INSURANCE
BY: MEK

Kelstrom, Sean
(National Producer Number 13039573)
(Legacy License Number 1103590)
and
Sean Kelstrom Ins Agency LLC
(National Producer Number 16679923)
(Legacy License Number 1103707),

ADMINISTRATIVE LAW JUDGE
DECISION

Respondents.

HEARING: December 19, 2017

APPEARANCES: Sean Kelstrom failed to 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 Sean Kelstrom's and Sean Kelstrom Insurance Agency LLC's Arizona nonresident insurance producer's licenses should be disciplined. Based on the evidence presented by the Arizona Department of Insurance (Department), the Administrative Law Judge recommends that the Director of the Department revoke Respondents' licenses for the reasons set forth in the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Department issued Arizona nonresident property, casualty, and life insurance producer license No. 1103590 to Respondent Sean Kelstrom on February 12, 2015; this license expires on October 31, 2018. See Exhibit 1. At the time of licensing, Mr. Kelstrom held an active resident license in the state of Utah.

2. The Department issued Arizona nonresident property, casualty, and life insurance producer license number 1103707 to Sean Kelstrom Insurance Agency LLC on February 15, 2015; this license expires on February 27, 2019. See Exhibit 2. Mr. Kelstrom is the designated producer.

3. Mr. Kelstrom's addresses of record with the Department are: (1) a business address at 327 W. Gordon Ave. Suite 3, Layton, Utah 84041; (2) a business and mailing

1 address at 531 Windsor St., Salt Lake City, Utah 84201; and an electronic business address
2 of SEAN.KELSTROM@AMFM.COM.

3 4. On May 17, 2017, Mr. Kelstrom surrendered his individual Utah license. See
4 Exhibit 3. In Utah, the license is "inactive."

5 5. On May 16, 2017, Sean Kelstrom Insurance Agency LLC surrendered its
6 Utah license. See Exhibit 4. In Utah, the license is "inactive."

7 6. On October 31, 2017, the Department issued a Notice of Hearing indicating
8 its intent to discipline Respondents' Arizona nonresident insurance producers' licenses
9 under A.R.S. § 20-287(A)(1) and A.R.S. § 20-295(A) and (B).

10 7. The Department's witness, Agueelah Currie, Licensing Supervisor, testified
11 that to hold an Arizona nonresident license, an insurance producer must continue to have
12 a valid resident's license.

13 8. The Department's position is that Respondents' Arizona nonresident
14 producers' licenses must be revoked as Respondents no longer have active valid residents'
15 licenses in their home state of Utah.

16 CONCLUSIONS OF LAW

17 1. This matter lies within the jurisdiction of the Department. See A.R.S. §§ 20-
18 281 to 302.

19 2. The Department bears the burden of proof and must establish cause to
20 revoke or otherwise penalize Respondents' nonresident insurance producer's licenses by
21 a preponderance of the evidence. See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119; see
22 also *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

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

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

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

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

5 5. The evidence established that Mr. Kelstrom no longer holds a current
6 resident license in his home state of Utah; a failure to be currently licensed in the home
7 state is a violation of A.R.S. § 20-287(A)(1). Similarly, Sean Kelstrom Insurance Agency
8 LLC no longer holds a current resident's license in its resident state of Utah and thus is
9 no longer eligible for an Arizona nonresident's license pursuant to A.R.S. § 20-287(A)(1).

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

11 A. The director may deny, suspend for not more than twelve months,
12 revoke or refuse to renew an insurance producer's license or may impose
13 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:

14
15 2. Violating any provision of this title or any rule, subpoena or order of the
director.

16 7. Respondents' Utah resident licenses are no longer currently active, which
17 results in a violation of A.R.S. §§ 20-287(A)(1) and 20-295(A)(2).

18 8. The Department has carried its burden to establish cause to revoke
19 Respondents' nonresident insurance producers' licenses.

20 **RECOMMENDED ORDER**

21 The Director of the Department of Insurance shall revoke Sean Kelstrom's Arizona
22 nonresident insurance producer's license No. 1103590 and Sean Kelstrom Insurance
23 Agency LLC's Arizona nonresident insurance producer's license No. 1103707.

24 *In the event of certification of the Administrative Law Judge Decision by the*
25 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
26 *five days from the date of that certification*

27 Done this day, January 8, 2018.

28 /s/ Kay Abramsohn
29 Administrative Law Judge
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Transmitted electronically to:
Leslie R. Hess, Interim Director
Arizona Department of Insurance