

JUN 28 2018

DEPT OF INSURANCE
BY ms

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

No. 18A-044-INS

SPONTANEO, AARON MATTHEW
(a/k/a JACKSON, AARON LEE)

ORDER

Petitioner.

On June 26, 2018, the Office of Administrative Hearings, through Administrative Law Judge Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Interim Director of the Department of Insurance ("Interim Director") on June 26, 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:

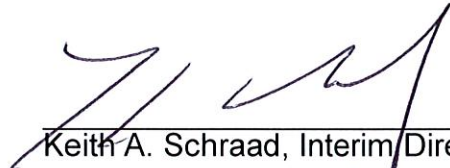
1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director denies **Aaron Matthew Spontaneo's** application for an Arizona insurance adjuster license.

NOTIFICATION OF RIGHTS

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

5 DATED this 27th day of June, 2018.

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10 Keith A. Schraad, Interim Director
11 Arizona Department of Insurance

12 **COPY** of the foregoing mailed this
13 28th day of June, 2018, to:

14 Aaron Matthew Spontaneo
15 2224 E. Sells Dr.
16 Phoenix, AZ 85016
17 Petitioner

18 **COPY** delivered same date to:

19 Mary Kosinski, Executive Assistant for Regulatory Affairs
20 Catherine O'Neil, Consumer Legal Affairs Officer
21 Steven Fromholtz, Asst. Dir., Consumer Protection Division
22 Aqueelah Currie, Licensing Supervisor
23 Sharyn Kerr, Consumer Protection Division
24 Arizona Department of Insurance
25 2910 North 44th Street, Suite 210
26 Phoenix, Arizona 85018

Ryan Krench
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

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

24 
25 Maidene Scheiner

JUN 26 2018

DEPT. OF INSURANCE
BY: JMK

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 18A-044-INS

SPONTANEO, AARON MATTHEW

ADMINISTRATIVE LAW JUDGE
DECISION

(a/k/a JACKSON, AARON LEE

Petitioner.

HEARING: June 12, 2018

APPEARANCES: Aaron Matthew Spontaneo on his own behalf; Ryan Krench,
Esq. for the Department of Insurance

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

1. On May 3, 2018, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing on June 12, 2018 at the Office of Administrative Hearings in Phoenix, Arizona.

2. The Notice of Hearing shows that the issue is Petitioner Aaron Matthew Spontaneo's appeal of the Department's denial of his application for an insurance adjuster's license.

3. Mr. Spontaneo appeared and testified on his own behalf, and he also presented the testimony of his wife, Sarah Spontaneo, and father-in-law, Tom Wilkerson. The Department presented the testimony of Aqueelah Currie, its Licensing Supervisor.

4. On April 6, 2018, Mr. Spontaneo filed with the Department an application for an insurance adjuster's license using a paper form.

5. On April 11, 2018, Mr. Spontaneo filed with the Department a second application for an insurance adjuster's license, this time using an on-line form.

1 6. In his April 6th application, Mr. Spontaneo answered “no” to question V(A)
2 that asks if the applicant has ever had any professional, vocational, business license or
3 certificate revoked.

4 7. In his April 11th application, Mr. Spontaneo answered “no” to question 2 of
5 the background section that asks whether the applicant has ever been named or
6 involved in an administrative proceeding regarding any professional or occupational
7 license, where involvement is defined to include having a license suspended or
8 revoked.

9 8. Mr. Spontaneo was the qualifying party and manager of Castleway
10 Construction LLC that was licensed by the Arizona Registrar of Contractors (“ROC”). On
11 December 30, 2016, ROC revoked Castleway’s license number 303031. On July 5,
12 2017, ROC revoked Castleway’s license number 303031 for a second time.

13 9. Question V(C)(1) of the April 6th application asks in pertinent part if the
14 applicant has ever been found guilty of, or admitted to a felony. Question V(D) asks if
15 there are any cases currently pending in any jurisdiction accusing the applicant of any
16 issue listed in question V(C). Mr. Spontaneo answered “no” to question V(D).

17 10. In his April 11th application, Mr. Spontaneo answered “no” to question 1(B)
18 of the background section that asks whether the applicant is currently charged with any
19 felonies.

20 11. On October 11, 2016, a grand jury in the District Court of Douglas County
21 Colorado issued an indictment charging Mr. Spontaneo with one count of Pattern of
22 Racketeering and twenty-one counts of Theft, all of which are felonies.

23 12. On April 13, 2018, the State of Indiana Department of Insurance issued its
24 Findings of Fact, Conclusions of Law, and Emergency Order through which it
25 suspended for ninety days Mr. Spontaneo’s Independent Adjuster license number
26 3304435. The Order shows that the suspension is renewable as necessary per Indiana
27 Code section 4-21.5-4-5.
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1 13. In a letter dated April 16, 2018, the Department informed Mr. Spontaneo
2 that his application had been denied.¹

3 14. Mr. Spontaneo requested a hearing, which led to the instant matter be
4 scheduled.

5 15. Mr. Spontaneo also requested an informal settlement conference, but
6 through an oversight on the Department's part, no conference took part.

7 16. Ms. Currie provided credible testimony that Mr. Spontaneo's application
8 was denied because he did not provide accurate or truthful answers on his application.
9 In particular, the Department found that his answers to question V(A) on the April 6th
10 application and question 2 on the April 11th application were false or misleading
11 because ROC had previously revoked Castleway's license, and that his answers to
12 question V(D) on the April 6th application and question 1(B) on the April 11th application
13 were false or misleading because he had been indicted and charged with twenty-two
14 felonies.

15 17. Full disclosure during the application process is important because the
16 Department cannot actively monitor licensees.

17 18. Mr. Spontaneo acknowledged that in October 2017 he learned that
18 Castleway's ROC license had been revoked, but he asserted that he does not know
19 why that license was revoked and he did not believe that it should have been revoked.

20 19. Mr. Spontaneo asserted that the felony charges against him were cleared
21 up or would be soon. He added that the felony charges resulted from a business
22 bankruptcy.

23 20. Mr. Spontaneo asserted that Indiana's suspension of his insurance license
24 was a result of Farmers Insurance telling lies to Indiana.

25 21. Ms. Spontaneo testified to Mr. Spontaneo's work ethic. Mr. Wilkerson
26 testified as to his opinion that Mr. Spontaneo's heart was in the right place and that he
27 was paying the price for getting involved with the wrong people.

28 **CONCLUSIONS OF LAW**

29 ¹ The letter shows that the denial was based on ARIZ. REV. STAT. sections 20-340.03(A)(1), (A)(3), (A)(8),
30 and (A)(9) without limitation. This appears to have been an error and the Notice of Hearing shows that the
denial is based on ARIZ. REV. STAT. section 20-295(A)(1) and (A)(9).

1 1. Mr. Spontaneo bears the burden of persuasion. See ARIZ. REV. STAT. § 41-
2 1092.07(G)(1).

3 2. The standard of proof on all issues in this matter is that of a preponderance
4 of the evidence. ARIZ. ADMIN. CODE § R2-19-119.

5 3. A preponderance of the evidence is:

6 The greater weight of the evidence, not necessarily established
7 by the greater number of witnesses testifying to a fact but by
8 evidence that has the most convincing force; superior
9 evidentiary weight that, though not sufficient to free the mind
10 wholly from all reasonable doubt, is still sufficient to incline a fair
11 and impartial mind to one side of the issue rather than the other.

12 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

13 4. The Department has authority to deny an application for an adjuster's
14 license for the reasons set out in ARIZ. REV. STAT. section 20-295. See ARIZ. REV. STAT.
15 § 20-320.02.

16 5. The preponderance of the evidence shows that Mr. Spontaneo gave
17 incorrect or materially untrue answers to questions V(A) and V(D) in his April 6th
18 application and incorrect or materially untrue answers to questions 1(B) and 2 in his
19 April 11th application, which are violations of ARIZ. REV. STAT. section 20-295(A)(1), and
20 a basis on which his application can be denied.

21 6. Mr. Spontaneo's Indiana insurance adjuster's license has been
22 suspended, which is a basis on which his application can be denied. ARIZ. REV. STAT. §
23 20-295(A)(9).

24 7. Mr. Spontaneo has failed to demonstrate by a preponderance of the
25 evidence that the Department's decision to deny his application should be overturned.

26 8. Mr. Spontaneo's appeal should be dismissed.

27 **ORDER**

28 **IT IS ORDERED** that Aaron Matthew Spontaneo's appeal is dismissed.

29 *In the event of certification of the Administrative Law Judge Decision by the Director of*
30 *the Office of Administrative Hearings, the effective date of the Order is five days after*
the date of that certification.

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Done this day, June 26, 2018

/s/ Thomas Shedden
Thomas Shedden
Administrative Law Judge

Transmitted electronically to:
Leslie R. Hess, Interim Director
Arizona Department of Insurance