

SEP 26 2019

DEPT OF INSURANCE
BY AS 9/26/2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

WOSMEK, DONALD ANTHONY
(National Producer Number 6461647)

Respondent.

No. 18A-121-INS

ORDER

On September 19, 2019, the Office of Administrative Hearings, through Administrative Law Judge Tammy L. Eigenheer, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on September 20, 2019, a copy of which is attached and incorporated by this reference. The Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

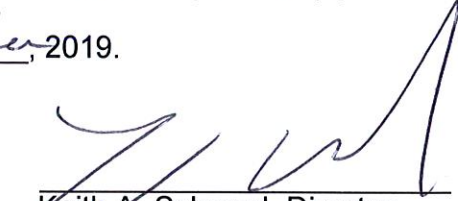
1. The Director adopts the Recommended Findings of Fact, Conclusions of Law and Recommended Order.
3. The Director revokes the Arizona resident insurance producer license of **Donald Anthony Wosmek**, National Producer Number 6461647, effective immediately.

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 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 Director to the Superior Court of
2 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 25th day of September, 2019.

6
7
8 
9 Keith A. Schraad, Director
10 Arizona Department of Insurance

11
12
13 **COPY** of the foregoing mailed by U.S. First-Class Mail
14 and Certified Mail, Return Receipt requested,
15 this 4th day of October, 2019, to:

16 Donald Anthony Wosmek
17 1137 East El Caminito Drive
18 Phoenix, AZ 85020
19 Respondent

20 Donald Anthony Wosmek
21 16404 Northe Black Canyon Highway
22 Phoenix, AZ 85053
23 Respondent

24 **COPY** of the foregoing delivered, same date, to:

25 Mary Kosinski, Regulatory Legal Affairs Officer
26 Catherine O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Assistant Director – Consumer Protection Division
Aqueelah Currie, Licensing Supervisor
Sharyn Kerr, Consumer Protection Division
Arizona Department of Insurance
100 North 15th Ave., Suite 102
Phoenix, Arizona 85007-2624

1 **COPY** sent same date via electronic mail to:

2 Deian Ousounov, Assistant Attorney General
3 AdminLaw@azag.gov
4 Attorney for the Department of Insurance

5 Susan Hack, Paralegal
6 Susan.hack@azag.gov
7 Office of the Attorney General

8 Felicia DelSol
9 Felicia.DelSol@azoah.com
10 Office of Administrative Hearings

11 
12 Francine Martinez

13
14
15
16
17
18
19
20
21
22
23
24
25
26

SEP 20 2019

DEPT. OF INSURANCE
BY: MEK

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 18A-121-INS

Wosmek, Donald Anthony
(National Producer No. 6461647)
Respondent

ADMINISTRATIVE LAW JUDGE
DECISION

HEARING: September 17, 2019

APPEARANCES: Respondent Donald Anthony Wosmek did not appear. The Arizona Department of Insurance was represented by Assistant Attorney General Deian Ousounov.

ADMINISTRATIVE LAW JUDGE: Tammy L. Eigenheer

FINDINGS OF FACT

1. At all times material to this matter, Donald Anthony Wosmek (Respondent) was licensed by the Arizona Department of Insurance (Department).

2. On or about October 2, 2017, the Department issued Respondent a license to Respondent as an insurance producer, National Producer Number 6461647 (License), which expires on June 30, 2021.

3. Mary Kosinski, Regulatory Legal Affairs Officer, testified that when an application for a license is received and processed, it is forwarded to the Arizona Department of Public Safety (DPS) for processing, which includes processing by the Federal Bureau of Investigation (FBI) for a criminal history background check to be conducted. The Department submits the completed fingerprint forms supplied by the applicant to DPS and DPS submits the fingerprint forms to the FBI for national processing.

4. On March 16, 2018, the Department issued a letter to Respondent by mail at his residence and mailing address of record, informing him that his fingerprint card that was submitted during the application process for the License could not be processed and was returned by DPS as illegible. In that letter, the Department requested that Respondent submit a replacement set of fingerprints and the enclosed

1 blank Illegible Fingerprint Replacement Form. The Department provided a deadline of
2 April 6, 2018, for the return of the completed replacement fingerprint form. Respondent
3 did not reply to the Department's request.

4 5. Because the Department did not receive the requested replacement
5 fingerprint form from Respondent as requested, on April 17, 2018, the Department sent
6 another letter to Respondent at his business address of record, giving Respondent a
7 deadline of May 4, 2018, to file with the Department an Illegible Fingerprint
8 Replacement Form with a new set of fingerprints or submit a Voluntary Surrender of
9 Insurance License Form. The Department indicated that the failure to respond to the
10 letter would result in the initiation of disciplinary action being taken against the License.

11 6. Ms. Kosinski testified that to date, Respondent had not responded to the
12 above-mentioned letters and had not submitted to the Department a new set of
13 fingerprints.

14 7. Respondent did not present any evidence to refute or rebut the evidence
15 presented by the Department.

16 **CONCLUSIONS OF LAW**

17 1. This matter is a disciplinary proceeding wherein the Department must
18 prove by a preponderance of the evidence that Respondent violated the State's
19 Insurance Laws. See A.A.C. R2-19-119.

20 2. During the application process, the Director of the Department required
21 Respondent to submit a full set of fingerprints and Respondent's illegible fingerprint
22 submission did not satisfy that requirement. See A.R.S. § 20-285(E)(2).

23 3. Respondent's conduct, as set forth above, constitutes a violation of
24 A.R.S. § 20-295(A)(1) by having failed to provide complete information in the license
25 application.

26 4. Respondent's conduct, as set forth above, constitutes the violation of any
27 provision of A.R.S., Title 20, within the meaning of A.R.S. § 20-295(A)(2).

28 5. Grounds exist for the Director of the Department to suspend, revoke, or
29 refuse to renew the License pursuant to A.R.S. § 20-295(A) and (F).

30 **ORDER**

1 Based upon the above, Respondent's License shall be revoked on the effective
2 date of the Order entered in this matter.

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

6 Done this day, September 19, 2019.

7
8 /s/ Tammy L. Eigenheer
9 Administrative Law Judge

10 Transmitted electronically to:

11 Keith A. Schraad, Director
12 Arizona Department of Insurance
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30