# STATE OF ARIZONA

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STATE OF ARIZONA

#### DEPARTMENT OF INSURANCE

In the Matter of:

TODD, ADAM

(National Producer Number 18918047)

Respondent.

No. 19A-006-INS

ORDER

On May 7, 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 May 8, 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:

- The Director adopts the Recommended Findings of Fact, Conclusions of Law and Recommended Order.
- The Director revokes the Arizona resident insurance producer license of Adam Todd, National Producer Number 18918047, 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 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B). 4 DATED this  $\frac{13^{16}}{13}$  day of  $\frac{13^{16}}{13}$ , 2019. 5 6 7 Keith A. Schraad, Director Arizona Department of Insurance 8 9 10 11 COPY of the foregoing mailed this \_\_\_\_\_\_\_, 2019, to: 12 Adam Todd 13 1515 E Horseshoe Ave. 14 Gilbert, AZ 85296 Respondent. 15 Adam Todd 16 16404 N Black Canyon Hwy., Suite 100 17 Phoenix, AZ 85053 Respondent. 18 Office of Administrative Hearings 19 1740 West Adams St., Lower Level Phoenix, Arizona 85007 20 **COPY** of the foregoing delivered, same date, to: 21 Mary Kosinski, Regulatory Legal Affairs Officer 22 Catherine O'Neil, Consumer Legal Affairs Officer Steven Fromholtz, Assistant Director - Consumer Protection Division 23 Aqueelah Currie, Licensing Supervisor Sharyn Kerr, Consumer Protection Division 24 Arizona Department of Insurance 100 North 15th Ave., Suite 102

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Phoenix Arizona 85007-2624

| 1  | COPY sent same date via electronic mail                                   |
|----|---|
| 2  | Adam Todd   |
| 3  | Zakiyyah.gordon@ttec.com Respondent                                       |
| 4  | Deian Ousounov  |
| 5  | Assistant Attorney General  |
| 6  | AdminLaw@azag.gov Attorney for the Department of Insurance                |
| 7  | Felicia DelSol Felicia.DelSol@azoah.com Office of Administrative Hearings |
| 8  |   |
| 9  | Susan Hack  |
| 10 | Susan.hack@azag.gov<br>Attorney General Paralegal                         |
| 11 | Attorney General Faralegal  |
| 12 | Annama Martina  |
| 13 | Francine Martinez   |
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MAY 08 2019

#### IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT. OF INSURANCE
BY:\_\_\_\_\_

In the Matter of:

No. 19A-006-INS

Adam Todd (National Producer No. 18918047) Respondent

ADMINISTRATIVE LAW JUDGE DECISION

HEARING: April 18, 2019

<u>APPEARANCES</u>: Respondent Adam Todd appeared on his own behalf. The Arizona Department of Insurance was represented by Assistant Attorney General Deian Ousounov.

**ADMINISTRATIVE LAW JUDGE:** Tammy L. Eigenheer

#### **FINDINGS OF FACT**

- 1. On September 19, 2018, Respondent Adam Todd submitted to the Department an application (Application) for an Insurance License. Respondent provided a residence address of 1515 East Horseshoe Avenue, Gilbert, Arizona 85296 and a business and mailing address of 16404 North Black Canyon Highway Suite 100, Phoenix, Arizona 85083. Respondent provided a business and individual email address of zaklyyah.gordon@ttec.com. Respondent provided a residence and business phone number of 602-375-5048.
  - 2. On the application, Respondent answered "no" to the following questions:
  - 1A: Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor? . . . .
  - 1B: Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?
  - 3. The Application provided the following attestation:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

Office of Administrative Hearings 1740 West Adams Street, Lower Level Phoenix, Arizona 85007 (602) 542-9826

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- 4. Because Respondent's application, on its face, did not raise any issues, the Department licensed Respondent as an Insurance Producer with an accident and health or sickness line of authority, under License Number 18918047, on September 20, 2018. The license expires on February 28, 2022.
- 5. Through the background check, the Department discovered that, on or about April 9, 2016, Respondent had entered a guilty plea in Maricopa County Superior Court to one count of Attempted Theft of Credit Card or Obtaining a Credit Card by Fraudulent Means, a class 6 undesignated felony. Respondent was sentenced to two years of probation. On or about June 13, 2017, the court issued an Order of Discharge from Probation in which Respondent's probation was terminated early and the charge was designated as a misdemeanor.
- 6. The Department presented the testimony of Aqueelah Currie, Licensing Supervisor, who testified consistently with the facts detailed above.
- 7. Respondent testified that he was employed by Teletech, which assisted him with the application process. As to the questions at issue, Respondent stated that he was uncertain how to answer the questions in light of the charge being redesignated as a misdemeanor and was advised by Teletech staff to answer "no" to both questions. Respondent also asserted that he did not receive any information from the Department regarding the issues with his License as the business and mailing addresses; business and individual email addresses; and residence and business phone numbers were all Teletech information. Respondent acknowledged that he was told he could update his contact information though the National Insurance Producer Registry (NIPR) after the license was approved, but Respondent did not do so.

## **CONCLUSIONS OF LAW**

- 1. This matter lies within the Department's jurisdiction.<sup>1</sup>
- 2. The Department bears the burden of proof to establish by a preponderance of the evidence, that discipline is warranted.<sup>2</sup> "A preponderance of the

evidence is such proof as convinces the trier of fact that the contention is more probably true than not."3

3. A.R.S. § 20-295(A) provides in pertinent part that:

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

- 1. Providing incorrect, misleading, incomplete or materially untrue information in the license application.
- 4. Respondent was convicted of a felony that was later redesignated as a misdemeanor. Whether Respondent was confused about if he had been convicted of a felony or a misdemeanor for purposes of the application question, Respondent knew he should have answered yes to one of the questions. That is to say, Respondent was aware of the prior criminal conviction and that it was either a misdemeanor or a felony, but could not believe it was neither.
- 5. Respondent failed to disclose his conviction and answered "No," to the relevant questions. The failure to disclose his conviction constitutes providing incomplete, misleading or materially untrue information on an insure application pursuant to A.R.S. § 20-295(A)(1). This failure to disclose also provides the Department with grounds to revoke Respondent's insurance license.

## **RECOMMENDED ORDER**

Based on the foregoing, it is recommended that the Director of the Department revoke Respondent's insurance license.

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

Done this day, May 7, 2019.

/s/ Tammy L. Eigenheer

<sup>&</sup>lt;sup>2</sup> See A.R.S. § 41-1092.07(G)(1); A.A.C. R2-19-119; see also Vazanno v. Superior Court, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

<sup>&</sup>lt;sup>3</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

# Administrative Law Judge

Transmitted electronically to:

Keith A. Schraad, Director Arizona Department of Insurance