

JUN 10 2019

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY MEK

In the Matter of:

TOTH, ATTILA GYULA
(National Producer Number 2620278)

Respondent.

No. 19A- 087 -INS

CONSENT ORDER

The State of Arizona Department of Insurance ("Department") has received evidence that **Attila Gyula Toth** ("Toth" or "Respondent") violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."). Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Toth was, at all material times, licensed as an Arizona-resident insurance producer, license number 2620278¹, with two (2) lines of authority: accident and health or sickness, and life insurance which is scheduled to expire on June 30, 2021.

2. Toth's addresses of record are: 21402 North 7th Avenue #5, Phoenix, Arizona, 85027 (business and mailing), and attilla.gy.toth@gmail.com (business email).

¹ Effective 04/21/2017, the license number issued to each Arizona-licensed insurance professional changed to match the producer's National Producer Number ("NPN"). Toth's former Arizona license number, now known as the Legacy License ID Number, is 1060279.

1 **2013 Initial License Application**

2 3. On or about October 15, 2013, Toth submitted to the Department an "Application
3 for an Individual Insurance License ("Initial Application"). Section V of the Initial Application
4 asks: "A. Have you EVER had a professional, vocational, business license or certification
5 refused, denied, suspended, revoked or restricted, **OR** been issued a consent order, an
6 administrative action **OR** a fine imposed by any public authority?" (emphasis in original).

7 4. Toth answered "No" to Question A of the Initial Application.

8 5. Section VII of the Initial Application states in part, "By signing and submitting this
9 application, you agree to the following. You attest that you have read and understand the
10 foregoing. You certify under penalty of denial, suspension or revocation of the license and
11 under any other penalties that may apply that the answers, statements and information
12 furnished in connection with this license application are true, correct and complete to the best
13 of your knowledge and belief." Toth printed and signed his name on the application.

14 **2017 License Renewal Application**

15 6. On or about July 22, 2017, Toth electronically submitted his license renewal
16 application to the Department ("Renewal Application").

17 7. The Renewal Application Question 2 asks "Have you been named or involved as
18 a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding
19 regarding any professional or occupational license or registration, which has not been
20 previously reported to this insurance department."

21 8. Toth answered "No" to Question 2 of the Renewal Application.

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1 9. Toth responded affirmatively on the Renewal Application's "Certificate and
2 Attestation," which reads in part, "I hereby certify, under penalty of perjury, all of the information
3 in this application and attachments I true and complete. I am aware that submitting false
4 information or omitting pertinent and material information in connection with this application is
5 grounds for license revocation or denial of the license and may subject me to civil or criminal
6 penalties."

7 **2011 Arizona Corporation Commission ("ACC") Decision**

8 10. On or about August 3, 2011, the ACC issued "Decision No. 72507: Order to
9 Cease and Desist, for Restitution, for Revocation, for Administrative Penalties, and Consent to
10 Same" in Docket No. S-20782A-11-0019 ("ACC Decision").

11 11. According to the ACC Decision, Toth contacted a client to solicit \$70,000.00 to
12 provide a short-term loan for a company which Toth represented had "very little to no risk."

13 12. Through Toth, the client submitted a distribution request from his 403(b) account
14 (a tax-sheltered annuity²). After withholding federal and state taxes totaling \$17,500.00, the
15 client received a distribution of \$52,500.00.

16 13. Toth directed the client to wire the \$52,500.00 to an account he designated, a
17 bank account on which he was a signatory.

18 14. Toth neither distributed the funds as a loan to the company nor repaid the client
19 as of the date of the ACC Decision.

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24 ² A **403(b)** plan, also known as a tax-sheltered annuity (TSA) plan, is a **retirement** plan for certain employees of public schools, employees of certain tax-exempt organizations, and certain ministers.

1 15. Toth admitted to the Findings of Fact and Conclusions of Law in the ACC
2 Decision.

3 **2012 Financial Industry Regulatory Authority (“FINRA”) Decision**

4 16. On or about November 30, 2012, FINRA issued a “Default Decision” against Toth
5 in Disciplinary Proceeding No. 2009019362801 (“FINRA Decision”).

6 17. FINRA charged Toth with five causes of action³: (1) misused customer funds [this
7 cause of action involved the same client from the ACC Decision], (2) borrowed money from a
8 customer, (3) made false statements to the ACC and his employer/member firm, (4) failed to
9 respond to FINRA’s requests for information regarding his outside business interests, and (5)
10 failed to respond to FINRA’s requests for information regarding client allegations of
11 misrepresentations, fraud, and recommendations of unsuitable private placements.

12 18. According to FINRA Sanction Guidelines, “no mitigating factors exist when a
13 customer’s funds are misused and a bar is the appropriate remedy.”

14 19. FINRA barred Toth from associating with any FINRA-registered member firm in
15 any capacity.

16 **CONCLUSIONS OF LAW**

17 1. The Director has jurisdiction over this matter.

18 2. Respondent’s conduct, as described above, constitutes obtaining a license
19 through misrepresentation or fraud, within the meaning of A.R.S § 20-295(A)(3).

20 3. Respondent’s conduct, as described above, constitutes using fraudulent, coercive
21 or dishonest practices, or demonstrating incompetence, untrustworthiness or financial
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24 ³ Per a footnote in FINRA’s Default Decision, “The factual determinations in this decision are based [in part] on the allegations in the Complaint,” dated July 5, 2012.

1 irresponsibility in the conduct of this business in this state or elsewhere, within the meaning of
2 A.R.S. § 20-295(A)(8).

3 4. Respondent's conduct, as described above, constitutes having an insurance
4 producer license, or its equivalent, denied, suspended or revoked in any state, province, district
5 or territory, within the meaning of A.R.S. § 20-295(A)(9).

6 5. Grounds exist for the Director to deny, suspend, revoke, or refuse to renew
7 Respondent's insurance license, impose a civil penalty and/or order restitution pursuant to
8 A.R.S. § 20-295(A) and (F).

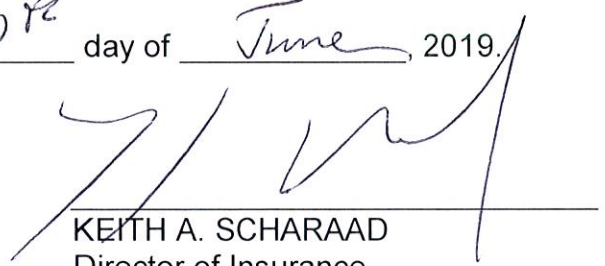
9 **ORDER**

10 IT IS HEREBY ORDERED THAT:

11 1. Attila Gyula Toth's life insurance line of authority under Arizona license number
12 2620278 is revoked, effective immediately.

13 2. Attila Gyula Toth's accident and health or sickness insurance line of authority
14 under Arizona license number 2620278 is not revoked and remains in good standing.

15 DATED AND EFFECTIVE this 10th day of June, 2019.

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18 KEITH A. SCHARAAD
Director of Insurance

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1 **CONSENT TO ORDER**

2 1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and
3 Order.

4 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona,
5 and admits the foregoing Findings of Fact and consents to the entry of the foregoing
6 Conclusions of Law and Order.

7 3. Respondent is aware of his right to notice and to a hearing, at which he may be
8 represented by counsel, present evidence and examine witnesses. Respondent irrevocably
9 waives his right to such notice and hearing and to any court appeals relating to this Consent
10 Order.


11 4. Respondent states that no promise of any kind or nature whatsoever, except as
12 expressly contained in this Consent Order, was made to him to induce him to enter into this
13 Consent Order and that he has entered into this Consent Order voluntarily.

14 5. Respondent acknowledges that the acceptance of this Consent Order by the
15 Director is solely to settle this matter against him and does not preclude any other agency,
16 officer, or subdivision of this state including the Department from instituting civil or criminal
17 proceedings as may be appropriate now or in the future.

18 6. Respondent acknowledges that this Consent Order is an administrative action
19 that the Department will report to the National Association of Insurance Commissioners (NAIC)
20 and that he may have to report this administrative action on any future licensing applications
21 either to the Department or other states' Departments of Insurance.

22 05/30/2019
23 10:05 PM GMT

24 _____
Date

attila toth 

Attila Gyula Toth (NPN / AZ License No. 2620278)

1 COPIES of the foregoing mailed/delivered
this 12th day of JUNE, 2019, to:

2 Joel Sannes
3 1138 North Alma School Road, Suite 101
Mesa, AZ 85201
4 Attorney for Respondent

5 Mary Kosinski, Regulatory Legal Affairs Officer
Catherine M. O'Neil, Consumer Legal Affairs Officer
6 Steven Fromholtz, Assistant Director, Consumer Protection Division
Sharyn Kerr, Administrative Assistant, Consumer Protection Division
7 Wendy Greenwood, Investigations Supervisor
Lawrence Bevins, Investigator
8 Arizona Department of Insurance
100 North 15th Avenue, Ste.102
9 Phoenix, Arizona 85007-2624

10 **COPY** delivered, same date, electronically, to:

11 Joel Sannes
jes@udallshumway.com
12 Attorney for Respondent

13
14 
Francine Martinez