STATE OF ARIZONA FILED

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DEPARTMENT OF INSURANCE By

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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

DEPARTMENT OF INSURANCE

No. 95-122

No. 95-122

The Matter of:

DEPARTMENT OF INSURANCE

CONSENT OF INSURANCE

On June 26, 1995, Notices of Hearing were issued by the Director ("Director") of the Department of Insurance, wherein the Department made certain allegations of violations of A.R.S. Title 20 committed by Applicant/Respondent ("Mr. Purk"). Mr. Purk received copies of the Notices and requested a hearing on the denial. Mr. Purk has been advised of his right to a hearing in each of these matters, which he waives.

1 Mr. Purk admits the following Findings of Fact are 2 true and consents to the entry of the following Conclusions of 3 Law and Order. FINDINGS OF FACT 5 1. Donald W. Purk is currently licensed as a life 6 and disability insurance agent (License No. 93524). 7 license expired July 31, 1995. Mr. Purk has filed a timely 8 renewal application for that license. 2. On or about April 20, 1973, Mr. Purk submitted an 10 application for a life and disability insurance agent license 11 to the Department. 12 3. Question 12 of the application asks: "Have you 13 ever been arrested, taken into custody, held for investigation 14 or questioning, or charged by any law enforcement authority? 15 Mr. Purk answered "No" to the question. 16 4. During the period of August 1970 and September 17 1971, Mr. Purk was arrested, taken into custody, held for 18 investigation or questioning, or charged by law enforcement 19 authorities in San Bernardino, California; Seymour, Indiana; 20 Lima, Ohio; and/or Claremont, California. 21 5. On or about March 12, 1976, Mr. Purk submitted an 22 application for renewal of his life and disability insurance 23 agent license to the Department. 24 Question 11 of the renewal application asks: 25 "Have you ever been arrested, taken into custody, held for 26 investigation or questioning, or charged by any law enforcement

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authority? Mr. Purk answered "Yes" to the question and explained that he had forgot to pay a traffic fine for speeding in Kingman, Arizona for \$66.00.

- 7. Mr. Purk failed to disclosed that during the period of August 1970 and September 1971, he had been arrested, taken into custody, held for investigation or questioning, or charged by law enforcement authorities in San Bernardino, California; Seymour, Indiana; Lima, Ohio; and/or Claremont, California.
- 8. On or about September 13, 1977 and September 7, 1979, Mr. Purk submitted applications for renewal of his life and disability insurance agent license to the Department.
- 9. Question 4 of the 1977 and 1979 renewal applications asks: "Have you ever been served with a criminal summons, questioned, arrested, taken into custody, indicted, charged with, tried for, pled guilty to, or convicted of, or ever been the subject of an investigation concerning the violation of any felony or misdemeanor? Mr. Purk answered "Yes" to the question and stated "See statement in your office."
- 10. Mr. Purk failed to disclosed that during the period of August 1970 and September 1971, he had been arrested, taken into custody, held for investigation or questioning, or charged by law enforcement authorities in San Bernardino, California; Seymour, Indiana; Lima, Ohio; and/or Claremont, California.

1 11. On or about August 10, 1994, Mr. Purk submitted 2 an application for a property and casualty insurance agent 3 license to the Department. On or about May 23, 1995, the Department denied 12. 5 Mr. Purk's application. 6 Section F, question 3., of the application asks: 13. 7 "Have you EVER been arrested, questioned, served a criminal 8 summons, taken into custody, charged with, tried for, or ever 9 been the subject of an investigation concerning the violation 10 of any felony or misdemeanor, or are any charges now pending 11 against you?" Mr. Purk answered "No" to the question. 12 14. Mr. Purk failed to disclosed that during the 13 period of August 1970 and September 1971, he had been arrested, 14 taken into custody, held for investigation or questioning, or 15 charged by law enforcement authorities in San Bernardino, 16 California; Seymour, Indiana; Lima, Ohio; and/or Claremont, 17 California. 18 CONCLUSIONS OF LAW 19 1. Mr. Purk's conduct described above constitutes a 20 wilful violation of, or wilful noncompliance with, any 21 provision of A.R.S. Title 20 or any lawful rule, regulation or 22 order of the Director, within the meaning of A.R.S. 23 $\S 20-316(A)(2)$. 24 2. Mr. Purk made a material misrepresentation or 25 fraud in the application for, or attempt to obtain, any 26 insurance license within the meaning of A.R.S. § 20-316(A)(3).

3. Mr. Purk made a material misrepresentation or fraud in the application for, or attempt to obtain, any insurance license within the meaning of A.R.S. § 20-290(B)(1).

ORDER

NOW, THEREFORE, IT IS ORDERED:

- 1. Mr. Purk will within 10 days of entry of this order, identify and disclose all incidents required to be disclosed on the applications Mr. Purk has on file with the Department that have not been previously disclosed for both the life and disability and property and casualty licenses.
- 3. Mr. Purk will pay a civil penalty of \$250.00 to the Department within 30 days of entry of this Order.
- 4. Mr. Purk's application for a property and casualty agent license will be approved and issued upon entry of this consent order. As of that date, said license will be suspended for a period of fourteen days.
- 5. The consolidated hearing set for August 25, 1995 at 9:00 a.m. is vacated by entry of this order.

DATED this 10th day of August, 1995.

CHRIS HERSTAM, Director Arizona Department of Insurance

CONSENT TO ORDER

1. The undersigned acknowledges that he has read the foregoing Findings of Fact, Conclusions of Law and Order and is aware of the right to an administrative hearing in these

matters and waives same.

- 2. The undersigned admits the jurisdiction of the Department and admits the foregoing Findings of Fact and consents to the foregoing Conclusions of Law and Order.
- 3. The undersigned states that no promises were made to him to induce him to enter into this Consent Order and declares that he has entered into this Consent Order voluntarily.
- 4. The undersigned acknowledges that acceptance of this Consent Order is for the purpose of settling this litigation as against Donald W. Purk and does not preclude the Department, or any other agency or officer of this State, or subdivision thereof, from instituting other civil or criminal proceedings as may be appropriate now or in the future.
- 5. The undersigned waives all rights to challenge these Findings of Fact, Conclusions of Law and Order on appeal or otherwise, and agrees to be bound by the foregoing Order.

Date: 8-7-95

DONALD W. PURK Applicant/Respondent

COPY of the foregoing mailed this 10th day of August, 1995, to:

Kathryn Leonard Assistant Attorney General 1275 West Washington, Room 259 Phoenix, Arizona 85007

Charles R. Cohen, Deputy Director 1 Gregory Y. Harris, Executive Assistant Director John Gagne, Manager of Investigations 2 Bruce Johnson, Investigator Maureen Catalioto, Supervisor 3 Department of Insurance 2910 North 44th Street, Suite 210 4 Phoenix, Arizona 85018 5 Donald Walter Purk 3174 East Marlette Avenue 6 Phoenix, AZ 85014 7 Donald Walter Purk Union Programs 8 5818 N. 7th Street, #200 Phoenix, AZ 85014 9 Frederick C. Berry, Jr. 10 4041 N. Central Avenue Suite 800 11 Phoenix, AZ 85012 Attorney for Respondent 12 ITT Hartford Life & Annuity Insurance Company 13 505 N. Highway 169 Minneapolis, MN 55441 14 Capitol American Life Insurance Company 15 1001 Lakeside Avenue North Point Tower, 8th Floor 16 Cleveland, OH 44114-1195 17 Jackson National Life Insurance Company P.O. Box 24068 18 Lansing, MI 48909 19 Life USA Insurance Company P.O. Box 59060 20 Minneapolis, MN 55459-0060 21 22 23 24 25

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