

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

STATE OF ARIZONA
FILED

OCT 23 1996

DEPT. OF INSURANCE
BY KHL

1
2
3
4
5 In the Matter of:) Docket No. 96A-142-INS
6 DANIEL PETER MATALUCCI) **ORDER**
7 Respondent.)
8 _____)

9
10 On October 15, 1996, the Office of Administrative Hearings, through Administrative Law
11 Judge Lewis D. Kowal submitted "Recommended Decision on Default of Respondent and Order
12 Vacating Hearing", a copy of which is attached and incorporated by this reference. The Director of the
13 Arizona Department of Insurance has reviewed the recommendation, and enters the following order:

- 14 1. The recommended findings of fact and conclusions of law are adopted.
15 2. All insurance licenses issued to Daniel Peter Matalucci by the Department are
16 immediately revoked.

17 NOTIFICATION OF RIGHTS

18 The aggrieved party may request a rehearing with respect to this Order by filing a written
19 petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth
20 the basis for such relief pursuant to A.A.C. R20-6-114(B).
21 ...
22 ...
23 ...

1 The final decision of the Director may be appealed to the Superior Court of Maricopa
2 County for judicial review pursuant to A.R.S. § 20-166.

3 EFFECTIVE this 23rd day of October, 1996

4
5 
6 _____
John King
Director of Insurance

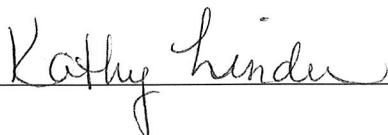
7 A copy of the foregoing mailed
8 this 23rd day of October, 1996

9 Charles Cohen, Deputy Director
10 John Gagne, Assistant Director
11 Catherine O'Neil, Assistant Director
12 Arnold Sniegowski, Investigator
13 Maureen Catalioto, Supervisor
14 Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

15 Office of Administrative Hearings
16 1700 West Washington, Suite 602
17 Phoenix, AZ 85007

18 Kathryn Leonard
19 Assistant Attorney General
20 1275 West Washington
21 Phoenix, AZ 85012

22 Daniel Matalucci
23 3939 W. Windmills Blvd., #1049
Chandler, AZ 85226

24
25 
26 _____

1
2
3
4
5
6
7
8

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 96A-142-INS

DANIEL PETER MATALUCCI,

**RECOMMENDED DECISION ON DEFAULT
OF RESPONDENT AND ORDER VACATING
HEARING**

Respondent.

9
10
11
12

Based upon the record in this matter, the following Findings of Fact,
Conclusions of Law, Recommended Order and Order Vacating Hearing are made:

13
14

FINDINGS OF FACT

15
16

1. On September 12, 1996, a Notice of Hearing ("Notice") was issued in this matter.

17
18
19

2. The Notice required Daniel Peter Matalucci ("Respondent") to provide an Answer to the allegations set forth in the Notice within twenty (20) days of the issuance of the Notice.

20
21
22

3. On October 8, 1996, counsel for the Arizona Department of Insurance ("Department") filed a Request for Default and Proposed Findings of Fact, Conclusions of Law and Order.

23
24

4. As of October 15, 1996, Respondent had not filed an Answer or response to the Department's Request for Default.

25
26
27

5. Pursuant to A.A.C. R20-6-106(C), a party that fails to file an Answer within the time provided shall be deemed to be in default and one or more of the allegations in the notice of hearing may be deemed to be admitted.

28

6. Notice of this hearing appears to have been proper.

29
30

7. Respondent is in default.

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
27
28
29
30

8. The allegations in the Notice attached to this Recommended Decision and incorporated herein, may be deemed admitted.

CONCLUSIONS OF LAW

1. The conduct alleged in the Notice constitutes grounds for the Director of the Department to suspend, revoke or refuse to renew Respondent’s licenses to transact insurance in Arizona, within the meaning of A.R.S. § 20-316(A).

2. The conduct alleged in the Notice constitutes grounds for the Director of the Department to impose a civil penalty pursuant to A.R.S. § 20-316(C).

3. By virtue of A.A.C. R20-6-106(C), the Director of the Department may deem the allegations in the Notice as admitted by Respondent’s failure to file an Answer.

4. Based on the conduct of the Respondent as determined above in the Findings of Fact, the Director of the Department may revoke all insurance licenses issued to the Respondent by the Department, pursuant to A.R.S. § 20-316(A).

RECOMMENDED ORDER

Based on the above, the Administrative Law Judge recommends that all insurance licenses issued to Daniel Peter Matalucci by the Department be immediately revoked.

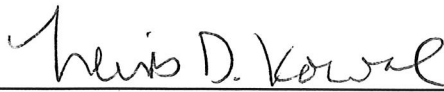
...
...
...
...
...
...
...

ORDER VACATING HEARING

The Administrative Law Judge has recommended that the Director of the Department deem the allegations of the Notice admitted.

Under the circumstances, IT IS ORDERED that the hearing of this matter scheduled for October 31, 1996, is vacated from the calendar of the Office of Administrative Hearings.

Done this day October 15, 1996.



LEWIS D. KOWAL
Administrative Law Judge

Original of the foregoing mailed this 16 day of October, 1996, to:

John C. King, Director
Attn: Curvey Burton
Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018-7256

By:





STATE OF ARIZONA
FILED

SEP 12 1996

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CWB

1 In the Matter of:)
 2) No. 96A-142
 3 DANIEL PETER MATALUCCI,)
 4)
 5 Respondent.)
 6) NOTICE OF HEARING
 7)

8 PLEASE TAKE NOTICE, that pursuant to the provisions of
 9 Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and
 10 including 20-165 and 41-1061, et seq., the above-captioned matter
 11 will be heard before the Director of Insurance of the State of
 12 Arizona (the "Director"), or his duly designated representative,
 13 on the 31st day of October, 1996, at 9:00 o'clock a.m., at
 14 Office of Administrative Hearings
1700 W. Washington, Suite 602, Phoenix, Arizona (the "Hearing").

15 Motions to continue this matter shall be made in writing to
 16 the Administrative Law Judge not less that five (5) business days
 17 prior to the date set for the Hearing. A copy of any motion to
 18 continue shall be mailed or hand-delivered to the opposing party
 19 on the same date of filing with the Office of Administrative
 20 Hearings.

21 A.R.S. §20-164 entitles any person affected by this Hearing
 22 to appear in person and by counsel, to be present during the
 23 giving of all evidence, to have a reasonable opportunity to
 24 inspect all documentary evidence, to examine witnesses, to
 25 present evidence in support of his/her interests, and to have
 26 subpoenas issued by the Administrative Law Judge to compel
 attendance of witnesses and production of evidence on the

9/13/96 - CWA
LDK

1 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR
2 ACCOMMODATIONS MUST BE MADE WITH 72 HOURS PRIOR NOTICE. IF YOU
3 REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE OFFICE OF
4 ADMINISTRATIVE HEARINGS AT 912-0887.

5 The allegations supporting this Notice of Hearing are as
6 follows:

7 1. Daniel Peter Matalucci ("Matalucci") is currently
8 licensed as a life and disability agent (License No. 33260).
9 Matalucci was originally licensed August 7, 1995. That license
10 is due to expire March 31, 1997. Matalucci's current business
11 address is unknown.

12 2. On or about February 5, 1996, a Warrant For Arrest was
13 issued by the Tempe Justice Court against Matalucci in State of
14 Arizona v. Daniel Matalucci, case No. CR91-01838A MI, for failure
15 to appear on a charge of issuing a bad check, in violation of
16 A.R.S. § 13-1807. Matalucci is currently at large.

17 3. From June 19, 1995, until his termination on
18 December 27, 1995, Matalucci was an authorized sales
19 representative for Western-Southern Life Assurance Company
20 ("Western-Southern").

21 4. Between the dates of June 20, 1995 and December 27,
22 1995, Matalucci collected \$1,178.33 in premium from insureds on
23 behalf of Western-Southern (see list of insureds prepared by
24 Western-Southern attached as Exhibit "A" and incorporated by
25 reference herein).

26 5. Matalucci failed to remit the premiums collected to

1 beneficiaries or other and received in or during the conduct of
2 business under the license or thorough its use in violation of
3 A.R.S. § 20-316(A) (4) .

4 5. Respondent's conduct alleged above constitutes a
5 conduct of affairs under the license showing the licensee to be
6 incompetent or a source of injury and loss to, or repeated
7 complaint by, the public or any insurer within the meaning of
8 A.R.S. § 20-316(A) (7) .

9 6. Respondent's conduct alleged above constitutes fraud in
10 that Mr. Matalucci knowingly and with intent to defraud, diverted
11 or attempted or conspired to divert the monies of an insurer,
12 reinsurer, entity licensed to transact insurance business in this
13 state or other person in connection with the transaction of
14 insurance or reinsurance in violation of A.R.S. § 20-
15 463(A) (4) (a) .

16 7. Grounds exist for the Director to suspend, revoke or
17 refuse to renew Respondent's insurance license, impose a civil
18 penalty upon Respondent, and/or order restitution, pursuant to
19 A.R.S. § 20-316(A) and §20-316(C) .

20 WHEREFORE, if after hearing, the Director makes a finding of
21 one or more of the above-described allegations the Director may
22 suspend, revoke or refuse to renew Respondent's insurance
23 licenses, impose a civil penalty and order restitution, pursuant
24 to A.R.S. §§20-316(A) and 20-316(C) .

25 Pursuant to A.R.S. §20-150, the Director of Insurance
26 delegates the authority vested in the Director of Insurance of

1 Maureen Catalioto, Supervisor
Department of Insurance
2 2910 North 44th Street, Suite 210
Phoenix, AZ 85018

3 Daniel Matalucci
4 3939 W. Windmills Blvd. #1049
Chandler, AZ 85226

5 A courtesy copy of this Notice of Hearing has been
6 mailed/delivered to the persons listed below. If you are listed
7 below, you will receive no further notices or documents
8 concerning this matter other than the Director's final order.
Information about the status of this matter, including whether
9 the hearings date has been changed, may be obtained by contacting
the Department of Insurance at (602) 912-8454 or the Assistant
Attorney General identified above, at (602) 542-7719.

10 Michelle D. Andrews
Western-Southern Life Assurance Company
11 400 Broadway
Cincinnati, OH 45202-3341

12 Jeanne Campagnolo
13 Western Southern Life Assurance Company
624 W. Broadway, #207
14 Mesa, AZ 85210


15

16

17

18

19


5482:CPA96-206:Notice:kll

20

21

22

23

24

25

26

LINE#	NAME	POLICY NUMBER	SHORTAGE	EXPLANATION
7	WOODS	043064847 043064855 043064861 043254108 043254109 043254110	\$70.00	PREMIUM PAYMENT COLLECTED 08-23-95 BY SALES REPRESENTATIVE. PAYMENT WAS MADE PAYABLE TO REPRESENTATIVE BUT INTENDED FOR PREMIUM PAYMENT. PAYMENT NOT APPLIED. COPY OF CANCELED CHECK ATTACHED.
8	WOODS	010312376 042734736 043253889	\$49.99	PREMIUM PAYMENTS COLLECTED 10-5-95 AND 12-7-95 BY SALES REPRESENTATIVE NOT APPLIED. DIVIDEND VALUE USED IN PLACE OF 10-5-95 PREMIUM. DECEMBER 7, 1995 PAYMENT NOT APPLIED. COPY OF RECEIPTS ATTACHED.
9	DIAZ	043484729 071486859	\$36.87	PREMIUM PAYMENT COLLECTED 12-16-95 BY SALES REPRESENTATIVE. PAYMENT NOT APPLIED. COPY OF RECEIPT ATTACHED.
10	GRIFFIN	043028670 043028675 043028684 043332349 043332351 043357239 050106712	\$188.39	PREMIUM PAYMENT COLLECTED 8-5-95 BY SALES REPRESENTATIVE. PAYMENT NOT APPLIED. COPY OF RECEIPTS ATTACHED.
11	PAYNE	010312365 042651717	\$89.20	PREMIUM PAYMENTS COLLECTED BY SALES REPRESENTATIVE 9/95 THROUGH 12/95. PAYMENTS NOT APPLIED IN FULL. LOAN VALUE USED IN PLACE OF PAYMENTS. COPY OF RECEIPTS ATTACHED.
12	HOWARD	010630033 050031866	\$136.36	PREMIUM PAYMENTS COLLECTED BY SALES REPRESENTATIVE. PAYMENTS NOT APPLIED IN FULL. DIVIDEND VALUE USED IN PLACE OF PAYMENTS. COPY OF RECEIPTS ATTACHED.