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STATE OF ARIZONA
FILED

MAY 28 1997

DEPT. OF INSURANCE
BY Kathy

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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:)
) No. 97A-059-INS
10 **TIMOTHY J. SULLIVAN, dba**)
11 **EXECUTIVE INSURANCE &**) **FINDINGS OF FACT, CONCLUSIONS**
12 **FINANCIAL SERVICES,**) **OF LAW AND ORDER**
)
Respondent.))

14 On March 25, 1997, a Notice of Hearing was issued in this matter, a copy of
15 which is attached and incorporated herein by this reference. The Notice required
16 Timothy J. Sullivan, dba Executive Insurance and Financial Services to provide
17 written answers to the allegations set forth in the Notice within twenty days of the
18 issuance of the Notice. As of this date, Respondent has failed to file an answer. On
19 May 15, 1997, counsel for the Department filed a Request for Default, and proposed
20 Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has
21 not responded to the Department's request. Pursuant to A.A.C. R20-6-106(C), a
22 party that failed to file an answer within the time provided shall be deemed to be in
23 default and one or more of the allegations in the Notice of Hearing may be deemed to
24 be admitted.

FINDINGS OF FACT

1. Notice was proper.

1 2. Timothy J. Sullivan dba Executive Insurance and Financial Services is in
2 default.

3 3. The allegations in the Notice of Hearing are deemed admitted.

4 CONCLUSIONS OF LAW

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

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

10 RECOMMENDED ORDER

11 IT IS ORDERED:

12 1. All insurance licenses held by Timothy J. Sullivan, dba Executive
13 Insurance and Financial Services are revoked effective upon the issuance of this
14 Order.

15 2. The hearing set for June 3, 1997, shall be vacated.

16 DATED this 28 day of May 1997.

17
18 
19 JOHN A. GREENE, Director
Arizona Department of Insurance

20 COPY of the foregoing mailed this
21 28 day of May, 1997, to:

22 Office of Administrative Hearings
23 1700 West Washington, Suite 602
Phoenix, Arizona 85007

24 Gerrie L. Marks
25 Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007

1 Charles R. Cohen, Deputy Director
Catherine O'Neil, Assistant Director
2 Scott Greenburg, Business Manager
John Gagne, Assistant Director
3 Doug Ullrich, Investigator
Maureen Catalioto, Supervisor
4 Department of Insurance
2910 N. 44th Street, Suite 210
5 Phoenix, Arizona 85018

6 Timothy J. Sullivan
1213 E. Divot Dr.
7 Tempe, Arizona 85253

8 Timothy J. Sullivan, dba
Executive Insurance and Financial Services
9 1213 E. Divot Dr.
Tempe, Arizona 85253

10 Jackson National Life Ins. Co.
11 P.O. Box 24068
Lansing, MI 48909

12 Lafayette LIC
13 P.O. Box 7007
Lafayette, IN 47903

14 Principal Mutual Life Ins. Co.
15 711 High Street
Des Moines, IA 50392

16 Lincoln Mutual LIC
17 P.O. Box 82448
Lincoln, NE 68501

18 Travelers LIC
19 One Tower Square
Hartford, CT 06183-6014

20 CNA
21 CNA Plaza
Chicago, IL 60685

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23 
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MAR 25 1997

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY

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In the Matter of:)	
)	No. 97A-059
TIMOTHY J. SULLIVAN, dba)	
EXECUTIVE INSURANCE &)	
FINANCIAL SERVICES,)	NOTICE OF HEARING
)	
Respondent.)	
_____)	

PLEASE TAKE NOTICE, that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165 and 41-1061 through and including 41-1066, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director"), or his duly designated representative, on the 3rd day of June, 1997, at 9:00 o'clock a.m., at the Office of Administrative Hearings, 1700 W. Washington, Capitol Tower, West Wing, Suite 602, Phoenix, Arizona (the "Hearing").

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

A.R.S. § 20-164 entitles any person affected by this Hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present evidence in support of his/her interests, and to have subpoenas

1 issued by the Administrative Law Judge to compel attendance of
2 witnesses and production of evidence on the person's behalf.

3 Questions concerning issues raised in this Notice of Hearing
4 should be directed to Assistant Attorney General Gerrie L. Marks
5 (602) 542-7725, 1275 West Washington, Phoenix, Arizona 85007.

6 NOTICE OF APPLICABLE RULES

7 On January 23, 1992, the Arizona Department of Insurance
8 adopted A.A.C. R20-6-101 through R20-6-115, setting forth the
9 rules of practice and procedure applicable in contested cases
10 before the Director of Insurance. The hearing will be conducted
11 pursuant to these rules.

12 PURSUANT TO A.A.C. R20-6-106 RESPONDENT SHALL FILE A WRITTEN
13 ANSWER WITH THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN TWENTY
14 (20) DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL
15 OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY GENERAL
16 DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S POSITION OR
17 DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE
18 NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED TO BE
19 ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL BE DEEMED
20 WAIVED. IF AN ANSWER IS NOT TIMELY FILED, THE RESPONDENT SHALL BE
21 DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS ARE
22 TRUE AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING
23 SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR RENEWAL OF A
24 LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR RESTITUTION TO ANY
25 PARTY INJURED.

26 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE

1 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMAT, OR
2 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR
3 ACCOMMODATIONS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME
4 TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS,
5 PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

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

8 1. Timothy J. Sullivan, dba Executive Insurance & Financial
9 Services ("Sullivan") is currently licensed as a life and
10 disability insurance agent (License No. 31189). His license
11 expires April 30, 1997.

12 2. Sullivan is doing business under the assumed name
13 Executive Insurance & Financial Services, 1213 E. Divot Dr.,
14 Tempe, AZ 85283. Sullivan has not filed a certificate of assumed
15 business name with the Director as required by A.R.S. § 20-318.

16 3. On or about November 25, 1996, the Director of the
17 Nebraska Department of Insurance adopted the Recommended Order
18 issued by the Hearing Officer which revoked Sullivan's nonresident
19 insurance agent's license. The order of revocation was based upon
20 findings of fact and conclusions of law entered by the hearing
21 officer, wherein she found that Sullivan improperly withheld,
22 misappropriated or converted to his own use money belonging to
23 policyholders, insurers, or others, received in the course of
24 transacting the business of insurance; that Sullivan demonstrated
25 untrustworthiness to transact business in such a manner as to
26 safeguard the public; and, did not act in a fiduciary capacity for

1 all funds collected as an insurance agent in violation of
2 Neb.Rev.Stat. §§ 44-4028(2), 44-4028(11), and 44-4038.

3 4. Sullivan's conduct described above constitutes a record
4 of dishonesty within the meaning of A.R.S. § 20-290(B)(2).

5 5. Sullivan has a record of misappropriation or conversion
6 to his own use or illegal withholding of monies belonging to
7 policyholders, insurers, beneficiaries or others and received in
8 the conduct of business in this state or elsewhere within the
9 meaning of A.R.S. § 20-290(B)(3).

10 6. Sullivan has a record of conduct under an insurance
11 license issued in this state or elsewhere showing the applicant to
12 be incompetent or a source of injury and loss to, or repeated
13 complaints by, the public or any insurer within the meaning of
14 A.R.S. § 20-290(B)(4).

15 7. Sullivan has a record of suspension or revocation of an
16 insurance license in any jurisdiction within the meaning of A.R.S.
17 § 20-290(B)(5).

18 8. Sullivan's conduct described above constitutes cause for
19 which original issuance or any renewal of the license could have
20 been refused, in violation of A.R.S. § 20-316(A)(1), together with
21 A.R.S. § 20-290(B)(2), (B)(3), (B)(4) and (B)(5).

22 9. Sullivan's conduct described above constitutes a wilful
23 violation of, or wilful noncompliance with any provision of this
24 title, or any lawful rule, regulation or order of the director in
25 violation of A.R.S. § 20-316(A)(2).

26 10. Sullivan's conduct alleged above constitutes the

1 misappropriation or conversion to her own use or illegal
2 withholding of monies belonging to policyholders, insurers,
3 beneficiaries or other and received in or during the conduct of
4 business under the license or through its use, in violation of
5 A.R.S. § 20-316(A) (4).

6 11. Sullivan's conduct described above constitutes a record
7 of suspension or revocation of an insurance license in any
8 jurisdiction, within the meaning of A.R.S. § 20-316(A) (5).

9 12. Sullivan's conduct alleged above constitutes a conduct
10 of affairs under his license showing the licensee to be
11 incompetent or a source of injury and loss to, or repeated
12 complaint by, the public or any insurer within the meaning of
13 A.R.S. § 20-316(A) (7).

14 13. Sullivan's conduct described above constitutes an act of
15 fraud in that Sullivan knowingly and with intent to defraud
16 diverted or attempted or conspired to divert the monies of an
17 insurer in connection with the transaction of insurance within the
18 meaning of A.R.S. § 20-463(A) (4) (a).

19 WHEREFORE, if after hearing, the Director makes a finding of
20 one or more of the above-described allegations the Director may
21 suspend, revoke or refuse to renew Sullivan's insurance license,
22 impose a civil penalty and order restitution, pursuant to A.R.S.
23 §§ 20-290(B), 20-316(A) and 20-316(C).

24 Pursuant to A.R.S. § 20-150, the Director of Insurance
25 delegates the authority vested in the Director of Insurance of the
26 State of Arizona, whether implied or expressed, to the Director of

1 the Office of Administrative Hearings or his designee to preside
2 over the hearing of this matter as the Administrative Law Judge,
3 to make written recommendations to the Director of Insurance
4 consisting of proposed findings of fact, proposed conclusions of
5 law, and a proposed order. This delegation does not include a
6 delegation of the authority of the Director of Insurance to make
7 the order on hearing or other final decision in this matter.

8 Pursuant to Arizona Revised Statutes § 41-1092.01, your
9 Hearing will be conducted by the Office of Administrative
10 Hearings, an independent agency. Please find enclosed a copy of
11 the procedures to be followed.

12 DATED in Phoenix, Arizona this 20 day of March, 1997.

13 

14 JOHN A. GREENE, Director
15 Arizona Department of Insurance

16 COPY of the foregoing mailed this
17 25th day of March, 1997, to:

18 Office of Administrative Hearings
19 1700 West Washington, Suite 602
20 Phoenix, AZ 85007

21 Gerrie L. Marks
22 Assistant Attorney General
23 1275 West Washington, Room 259
24 Phoenix, AZ 85007

25 Charles R. Cohen, Deputy Director
26 Catherine O'Neil, Assistant Director
Scott Greenburg, Business Manager
John Gagne, Assistant Director
Doug Ullrich, Investigator
Maureen Catalioto, Supervisor
Department of Insurance
2910 North 44th Street
Suite 210
Phoenix, AZ 85018

1 Timothy J. Sullivan
1213 E. Divot Dr.
2 Tempe, AZ 85253

3 Timothy J. Sullivan, dba
Executive Insurance & Financial Services
4 1213 E. Divot Dr.
5 Tempe, AZ 85283

6 A courtesy copy of this Notice of Hearing has
7 been mailed/delivered to the persons listed below.
8 If you are listed below, you will receive no further
9 notices or documents concerning this matter other than
10 the Director's final order. Information about the
11 status of this matter, including whether the hearings
12 date has been changed, may be obtained by contacting the
13 Department of Insurance at (602) 912-8454 or the
14 Assistant Attorney General identified above, at
15 (602) 542-7725.

11 Jackson National Life Ins. Co.
12 P.O. Box 24068
13 Lansing, MI 48909

13 Lafayette LIC
14 P.O. Box 7007
15 Lafayette, IN 47903

15 Principal Mutual Life Ins. Co.
16 711 High Street
17 Des Moines, IA 50392

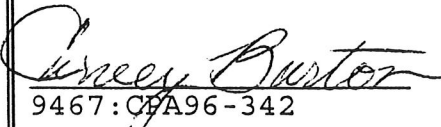
17 Lincoln Mutual LIC
18 P.O. Box 82448
19 Lincoln, NE 68501

19 Travelers LIC
20 One Tower Square
21 Hartford, CT 06183-6014

21 CNA
22 CNA Plaza
23 Chicago, IL 60685

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24

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