

JUN 6 1997

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:)
)
THOMAS ANTHONY LIUZZI, dba)
BIG WOODS INSURANCE AGENCY)
)
Respondent.)
)
)

No. 97A-078-INS
**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

On April 29, 1997, the Director issued a Notice of Hearing (the "Notice") in the above-captioned matter, a copy of which is attached and incorporated by this reference. The Notice required Thomas Anthony Liuzzi to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to file an answer. On May 27, 1997, counsel for the Department filed a Request for Default, and proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's request. 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.

FINDINGS OF FACT

- 1. Notice was proper.
- 2. Thomas Anthony Liuzzi is in default.
- 3. The allegations in the Notice are deemed admitted.

CONCLUSIONS OF LAW

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

...

1 Charles R. Cohen, Deputy Director
2 John Gagne, Assistant Director
3 Douglas E. Ullrich, Investigator
4 Maureen Catalioto, Supervisor
5 Department of Insurance
6 2910 N. 44th Street, Suite 210
7 Phoenix, Arizona 85018

8 Thomas Anthony Liuzzi
9 2851 Inca Drive
10 Lake Havasu City, Arizona 86403

11 Thomas Anthony Liuzzi
12 1799 Kiowa Boulevard, #101-513
13 Lake Havasu City, Arizona 86403

14 American Republic Insurance Co.
15 P.O. Box 1
16 Des Moines, IA 50301

17 Blue Cross & Blue Shield of Arizona, Inc.
18 P.O. 13466
19 Phoenix, AZ 85002-3466

20 Old Line Life Insurance Company
21 P.O. Box 401
22 Milwaukee, WI 53201-0401

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Kathy Linder
#11701

APR 29 1997

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In the Matter of:)	
)	No. 97A-078
THOMAS ANTHONY LIUZZI, dba)	
BIG WOODS INSURANCE AGENCY)	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, 41-1061 through and including 41-1066 and 41-1091.01, 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 10th day of June, 1997, at 9:00 a.m., at Office of Administrative Hearings, 1700 West Washington Street, 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

1 evidence in support of his interests, and to have subpoenas issued
2 by the Administrative Law Judge to compel attendance of witnesses
3 and production of evidence on the person's behalf.

4 Questions concerning issues raised in this Notice of Hearing
5 should be directed to Assistant Attorney General Michael J. De La
6 Cruz (602) 542-7722, 1275 West Washington, Phoenix, Arizona
7 85007.

8 NOTICE OF APPLICABLE RULES

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

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

1 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
2 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR
3 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR
4 ACCOMMODATIONS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME
5 TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS,
6 PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT (602) 542-
7 9826.

8 The allegations supporting this Notice of Hearing are as
9 follows:

10 1. Thomas Anthony Liuzzi ("Liuzzi") is currently and was at
11 all times material to this matter licensed as a life and
12 disability insurance agent (License No. 18439). That license is
13 due to expire April 30, 1997.

14 2. Liuzzi previously held a property and casualty insurance
15 agent's license with the Department which expired April 30, 1994.

16 COUNT I

17 3. On or about September 29, 1995, Liuzzi filed an
18 application for individual insurance license renewal with the
19 Department. The renewal application states, "ENTER ALL ARIZONA
20 ADMITTED INSURANCE CARRIERS (exact FULL names) APPLICANT IS
21 AUTHORIZED TO REPRESENT FOR THE LICENSE BEING RENEWED." Liuzzi
22 entered "MetLife" on the renewal application as the only insurance
23 carrier he was authorized to represent.

24 4. On or about October 7, 1994, Liuzzi's agent appointment
25 with Metropolitan Life Insurance Company ("MetLife") was
26

1 terminated. Liuzzi misrepresented his authority to represent
2 MetLife at the time of submitting his renewal application.

3 5. Liuzzi's conduct alleged above constitutes the existence
4 of misrepresentation or fraud in obtaining or attempting to obtain
5 any insurance license, in violation of A.R.S. § 20-316(A)(3).

6 6. Liuzzi's conduct alleged above constitutes a wilful
7 violation of, or wilful noncompliance with, any provision of this
8 title, or any lawful rule, regulation or order of the director, in
9 violation of A.R.S. § 20-316(A)(2).

10 7. Grounds exist for the Director to suspend, revoke or
11 refuse to renew Liuzzi's insurance license, impose a civil penalty
12 upon Liuzzi, and/or order restitution, pursuant to A.R.S. § 20-
13 316(A) and 20-316(C).

14 COUNT II

15 8. From January 1996 through June 1996, Liuzzi was
16 transacting the business of insurance under the assumed business
17 name of Big Woods Auto Insurance ("Big Woods"). Liuzzi failed to
18 file a Certificate of Assumed Business Name with the Department
19 prior to operating under the assumed business name of Big Woods in
20 violation of A.R.S. § 20-318. Upon information and belief, Liuzzi
21 was the owner and operator of Big Woods Auto Insurance.

22 COUNT III

23 9. From January 1996 through June 1996, Liuzzi wrote and
24 submitted insurance applications on behalf of Arizona residents
25 for auto insurance through Insurance Service Underwriters of the
26

1 Southwest Inc. ("ISU"), a managing general agent for various
2 insurance carriers.

3 10. From January 1996 through June 1996, Liuzzi received
4 \$1,386.75 in commissions from ISU for transacting this business.

5 11. From January 1996 through June 1996, Liuzzi acted as an
6 insurance agent or otherwise represented or aided ISU in the
7 solicitation, negotiation, procurement or effectuation of auto
8 insurance as defined in A.R.S. § 20-106(A).

9 12. From January 1996 through May 1996, Liuzzi transacted
10 the business of auto insurance and held himself out to be a
11 property and casualty insurance agent without being licensed by
12 the State of Arizona, in violation of A.R.S. §§ 20-107 and 20-287.

13 13. Liuzzi's conduct alleged above constitutes unlawful
14 receipt of commissions in violation of A.R.S. § 20-311(A).

15 14. Liuzzi's conduct alleged above constitutes a wilful
16 violation of, or wilful noncompliance with, any provision of this
17 title, or any lawful rule, regulation or order of the director, in
18 violation of A.R.S. § 20-316(A)(2).

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

23 16. Grounds exist for the Director to suspend, revoke or
24 refuse to renew Liuzzi's insurance license, impose a civil penalty
25 upon Liuzzi, and/or order restitution, pursuant to A.R.S. § 20-
26 316(A) and 20-316(C).

COUNT IV

1
2 17. From January 1996 through May 1996, Liuzzi wrote and
3 submitted insurance applications on behalf of Arizona residents
4 for auto insurance through AIG Specialty Auto ("AIG").

5 18. From January 1996 through May 1996, Liuzzi received
6 \$1,493.15 in commissions from AIG for transacting this business.

7 19. From January 1996 through May 1996, Liuzzi acted as an
8 insurance agent or otherwise represented or aided AIG in the
9 solicitation, negotiation, procurement or effectuation of auto
10 insurance as defined in A.R.S. § 20-106(A).

11 20. From January 1996 through May 1996, Liuzzi transacted
12 the business of auto insurance and held himself out to be a
13 property and casualty insurance agent without being licensed by
14 the State of Arizona, in violation of A.R.S. §§ 20-107 and 20-287.

15 21. Liuzzi's conduct alleged above constitutes unlawful
16 receipt of commissions in violation of A.R.S. § 20-311(A).

17 22. Liuzzi's conduct alleged above constitutes a wilful
18 violation of, or wilful noncompliance with, any provision of this
19 title, or any lawful rule, regulation or order of the director, in
20 violation of A.R.S. § 20-316(A)(2).

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

25 24. Grounds exist for the Director to suspend, revoke or
26 refuse to renew Liuzzi's insurance license, impose a civil penalty

1 upon Liuzzi, and/or order restitution, pursuant to A.R.S. § 20-
2 316(A) and 20-316(C).

3 COUNT V

4 25. From April 1996 through January 1997, Liuzzi prepared
5 and submitted twelve (12) insurance applications for life
6 insurance through American Republic Insurance Company ("American
7 Republic"). Liuzzi fabricated and submitted completely fictitious
8 applications without authorization from any of the applicants.

9 26. From April 1996 through January 1997, Liuzzi received
10 advanced payment of commissions on 7 of the 12 fictitious
11 applications submitted to American Republic in the amount of
12 \$2,778.06.

13 27. Liuzzi's conduct alleged above constitutes a wilful
14 violation of, or wilful noncompliance with, any provision of this
15 title, or any lawful rule, regulation or order of the director, in
16 violation of A.R.S. § 20-316(A)(2).

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

21 29. Liuzzi's conduct and actions as a life insurance agent
22 constitute the knowingly making of a false or fraudulent statement
23 or representation in or relative to an application for life or
24 disability insurance, or the making of any such statement to
25 obtain a fee, commission, money or benefit, in violation of A.R.S.
26 § 20-458.

1 30. Liuzzi's conduct alleged above constitutes an act of
2 fraud in that Liuzzi knowingly and with intent to defraud
3 presented, caused to be presented or prepared with the knowledge
4 or belief that it would be presented an oral or written statement
5 to an insurer that Liuzzi knew to contain materially false
6 information concerning material fact as to an application for the
7 issuance of an insurance policy, in violation of A.R.S. § 20-
8 463(A) (1) (a) .

9 31. Grounds exist for the Director to suspend, revoke or
10 refuse to renew Liuzzi's insurance license, impose a civil penalty
11 upon Liuzzi, and/or order restitution, pursuant to A.R.S. § 20-
12 316(A) and 20-316(C) .

13 WHEREFORE, if after hearing, the Director finds the grounds
14 alleged above, the Director may suspend, revoke or refuse to renew
15 Respondent's insurance license or order restitution, pursuant to
16 A.R.S. §§ 20-316(A) and 20-316(C) .

17 Pursuant to A.R.S. § 20-150, the Director of Insurance
18 delegates the authority vested in the Director of Insurance of the
19 State of Arizona, whether implied or expressed, to the Director of
20 the Office of Administrative Hearings or his designee to preside
21 over the hearing of this matter as the Administrative Law Judge,
22 to make written recommendations to the Director of Insurance
23 consisting of proposed findings of fact, proposed conclusions of
24 law, and a proposed order. This delegation does not include
25 delegation of the authority of the Director of Insurance to make
26 the order on hearing or other final decision in this matter.

1 Pursuant to A.R.S. § 41-1092.01, your hearing will be
2 conducted through the Office of Administrative Hearings, an
3 independent agency. Enclosed is a copy of the procedures to be
4 followed.

5 DATED this 28th day of April 1997.

6
7
8 *for* John A. Greene, DEP. DIR.
9 JOHN A. GREENE, Director
Arizona Department of Insurance

10 COPY of the foregoing mailed
this 29th day of April 1997 to:

11 Office of Administrative Hearings
12 1700 West Washington, Suite 602
Phoenix, AZ 85007

13 Michael J. De La Cruz
14 Assistant Attorney General
15 1275 West Washington Street
Phoenix, Arizona 85007
Attorney for the Department

16 Charles R. Cohen, Deputy Director
17 John Gagne, Assistant Director
18 Douglas E. Ullrich, Investigator
Maureen Catalioto, Supervisor
19 Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

20 Thomas Anthony Liuzzi
21 2851 Inca Drive
Lake Havasu City, Arizona 86403
Respondent

22 Thomas Anthony Liuzzi
23 1799 Kiowa Boulevard, #101-513
24 Lake Havasu City, Arizona 86403
Respondent

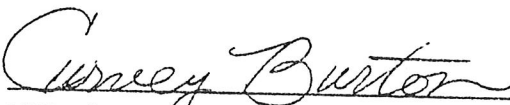
25 Mario Guevara
26 Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007

1 A courtesy copy of this Notice of Hearing has been
2 mailed/delivered to the persons listed below. If you are listed
3 below, you will receive no further notices or documents concerning
4 this matter other than the Director's final order. Information
5 about the status of this matter, including whether the hearing
6 date has been changed, may be obtained by contacting the
7 Department of Insurance at (602) 912-8454 or the Assistant
8 Attorney General identified above, at (602) 542-7722.

9 American Republic Insurance Co.
10 P.O. Box 1
11 Des Moines, IA 50301

12 Blue Cross & Blue Shield of Arizona, Inc.
13 P.O. 13466
14 Phoenix, AZ 85002-3466

15 Old Line Life Insurance Company
16 P.O. Box 401
17 Milwaukee, WI 53201-0401

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19 _____
20 10781 [CPA97-338]