

APR 2 1996

1 2113:CPA:96-091:kll

2 STATE OF ARIZONA DEPT. OF INSURANCE
3 DEPARTMENT OF INSURANCE

4 In the Matter of:)
5 HAROLD KLETSKY,) No. 96A-049
6) ORDER SUMMARILY SUSPENDING
7 Respondent.) LICENSE AND NOTICE OF
) HEARING
)

8 The Department of Insurance ("Department") alleges below
9 that Harold Kletsy, the Respondent, has violated the provisions
10 of A.R.S. Title 20. In light of the serious nature of these
11 allegations, the Director of Insurance ("Director") finds that
12 the public health, safety and welfare imperatively require
13 emergency action, within the meaning of A.R.S. § 41-1064(C).

14 THEREFORE, IT IS ORDERED summarily suspending the insurance
15 license held by Mr. Kletsy, effective immediately, pending the
16 proceedings commenced this date.

17 EFFECTIVE this 15th day of April, 1996.

18
19 
20 CHRIS HERSTAM
Director of Insurance

21 PLEASE TAKE NOTICE, that pursuant to the provision of A.R.S.
22 § 20-161 through 20-165 and 41-1061 et seq., the above captioned
23 matter will be heard before the Director of the Office of
24 Administrative Hearings or his designee, on the 14th day of
25 May, 1996, at 8:30 o'clock a.m., at 2910 North 44th Street,
26 Suite 210, Phoenix, Arizona.

27 Motions to continue this matter shall be made in writing to
28 the Administrative Law Judge not less than five business days

1 before the date set for the hearing. A copy of any motion to
2 continue shall be mailed or hand delivered to the opposing party
3 or attorney on the same date of filing with the Office of
4 Administrative Hearings. A.R.S. § 20-164 entitles any person
5 affected by this hearing to appear in person and by counsel, to
6 be present during the giving of all evidence, to have a
7 reasonable opportunity to inspect all documentary evidence, to
8 examine witnesses, to present evidence in support of the person's
9 interest, and to have subpoenas issued by the Administrative Law
10 Judge to compel attendance of witnesses and production of
11 evidence in the person's behalf.

12 Questions concerning issues raised in this Order should be
13 directed to Assistant Attorney General KATHRYN LEONARD (602) 542-
14 7719, 1275 West Washington, Phoenix, AZ 85007.

15 NOTICE OF APPLICABLE RULES

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

21 PURSUANT TO A.A.C. R20-6-106 RESPONDENT SHALL FILE A WRITTEN
22 ANSWER WITH THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN TEN (10)
23 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND SHALL MAIL OR
24 DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY GENERAL
25 DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S POSITION
26 OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN
27 THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED
28 TO BE ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL BE

1 DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, THE RESPONDENT
2 SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE
3 ALLEGATIONS ARE TRUE AND TAKE WHATEVER ACTION IS APPROPRIATE,
4 INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR RENEWAL
5 OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR RESTITUTION TO
6 ANY PARTY INJURED.

7 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
8 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMAT, OR
9 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR
10 ACCOMMODATIONS MUST BE MADE WITH 72 HOURS PRIOR NOTICE. IF YOU
11 REQUIRE ACCOMMODATIONS, PLEASE CONTACT RICHARD BRINTON AT 912-
12 8460.

13 The Director alleges:

14 1. On or about September 29, 1980, license number 235831
15 was issued to Harold Kletsky authorizing him to transact life and
16 disability insurance in the state of Arizona. That license was
17 due to expire July 31, 1995. pursuant to A.R.S. § 20-314.

18 2. On or about July 10, 1995, Mr. Kletsky filed an
19 application to renew the life and disability license that he held
20 (the "1995 renewal"). In conjunction with the application, Mr.
21 Kletsky tendered to the Department check number 002, drawn on
22 Bank One account 00846874 made payable to the Arizona Department
23 of Insurance, in the amount of \$49.50, signed with the name
24 Harold Kletsky (the "check").

25 3. On or about August 31, 1995, after submitting the check
26 to Bank One for payment, the check was returned for insufficient
27 funds.

28 4. On or about September 7, 1995, the Department mailed

1 Mr. Kletsky, by certified mail, a returned check notification,
2 advising him that the check had been returned and that payment
3 had to be made to the Department.

4 5. On or about September 8, 1995, the certified letter
5 containing the returned check notification was signed with Mr.
6 Kletsky's name and accepted.

7 6. Mr. Kletsky failed to respond to the Department's
8 notification and failed to make good the insufficient fund check.

9 **COUNT II**

10 7. On or about September 12, 1995, the Department sent a
11 letter to Mr. Kletsky at his address of record with the
12 Department, seeking information relating to a complaint lodged
13 with the Department concerning Mr. Kletsky. In the letter Mr.
14 Kletsky was asked to respond no later than October 11, 1995. Mr.
15 Kletsky to date, has not responded to the September 12, 1995
16 letter.

17 8. On or about November 7, 1995, the Department served Mr.
18 Kletsky with an Order to Appear by certified mail to the address
19 of record Mr. Kletsky furnished in the 1995 renewal. The Order
20 To Appear directed Mr. Kletsky to appear on November 29, 1995, to
21 be interviewed at the Department concerning Mr. Kletsky's
22 compliance with Title 20. Mr. Kletsky did not appear in response
23 to the Order To Appear.

24 **VIOLATIONS**

25 9. Mr. Kletsky's failure to timely pay the required fee to
26 renew the license he held constitutes ground for which original
27 issuance of the license could have been refused within the
28 meaning of A.R.S. § 20-316(A)(1) and A.R.S. § 20-290(B)(1) and

1 pursuant to A.R.S. § §20-167, 20-394 and 20-314.

2 10. Mr. Kletsky's failure to appear in response to the
3 Order To Appear issued by the Director constitutes "the wilful
4 violation of, or wilful noncompliance with, any provision of this
5 title or any lawful rule, regulation or order of the director"
6 within the meaning of A.R.S. § 20-316(A) (2) .

7 11. Ground exist for the Director to suspend, revoke or
8 refuse to renew the license held by Mr. Kletsky or to order Mr.
9 Kletsky to pay civil penalties, or both, pursuant to A.R.S. § 20-
10 316(A) (C) .

11 12. Based upon the conduct described above, and pursuant to
12 A.R.S. § 41-1064(C), the public health, safety and welfare
13 imperatively require emergency action in the form of the summary
14 suspension of all Arizona insurance licenses held by Mr. Kletsky,
15 effective immediately, pending the proceedings for revocation
16 commenced this date.

17 If after hearing, or upon default in accordance with A.A.C.
18 R20-6-106, the Director makes a finding of one or more of the
19 above-described violation, he may suspend, revoke or refuse to
20 renew the licenses held by Mr. Kletsky, impose civil penalties
21 upon Mr. Kletsky's, and order restitution, pursuant to A.R.S. §
22 §21-315(A) . 20-316(B) . 20-316(C) , 20-417 and 20-418.

23 Pursuant to A.R.S. § 20-150, the Director of Insurance
24 delegates the authority vested in the Director of the State of
25 Arizona, whether implied or expressed, to the Director of the
26 Office of Administrative Hearings or his designee, to preside
27 over the hearing of this matter as the Administrative Law Judge,
28 and to make written recommendations to the Director of Insurance

1 consisting of proposed findings of fact, proposed conclusions of
2 law, and a proposed order. This delegation does not include a
3 delegation of the authority of the Director of Insurance to make
4 the order of hearing or other final decision in this matter.

5 Pursuant to A.R.S. § 41-1092.01, your hearing will be
6 conducted through the Office of Administrative Hearings, an
7 independent agency. Please find enclosed a copy of the
8 procedures to be followed.

9 DATED this 29th of March, 1996.

10
11 

12 CHRIS HERSTAM
13 Director of Insurance

14
15 COPY of the foregoing
16 mailed/delivered this
2nd day of April, 1996

17 Kathryn Leonard
18 Assistant Attorney General
1275 West Washington, Room 259
Phoenix, AZ 85007

19 Charles R. Cohen, Deputy Director
20 Gregory Y. Harris, Executive Assistant Director
21 John Gagne, Assistant Director
22 Maureen Catalioto, Supervisor
23 Arnold Sniegowski, Investigator
Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, AZ 85018

24 Harold Kletsy
8221 N. 34th Drive
Phoenix, AZ 85051

25 Harold Kletsy
26 P.O. Box 9285
27 Scottsdale, AZ 85252

28 A courtesy copy of this Notice of Hearing has been
mailed/delivered to the persons listed below. If you are listed

1 below, you will receive no further notices or documents
2 concerning this matter other than the Director's final order.
3 Information about the status of this matter, including whether
4 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.

5 Jackson National Life Insurance Co.
6 P.O. Box 24068
Lansing, MI 48909

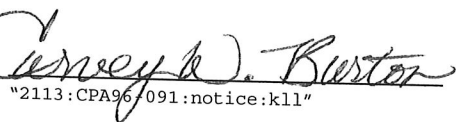
7 LifeUSA Insurance Company
8 P.o. Box 59060
Minneapolis, MN 55459-0060

9 USG Annuity & Life Company
10 P.O. Box 617
Des Moines, IA 50303-0617

11 Zurich Life Insurance Company
12 1400 American Lane, 12th Floor
Schaumburg, IL 60173-4987

13 Pioneer Life Insurance Company
14 1750 E. Golf Rd.
Schaumburg, IL 60173

15 Lafayette Life Insurance Company
16 P.O. Box 7007
Lafayette, IN 47903

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