

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

GIESE, PHILIP M.

(National Producer No. 6723490)

Respondent

No. 21A-063-INS

ORDER

On November 17, 2021, the Office of Administrative Hearings, through Administrative Law Judge Velva Moses-Thompson, issued an Administrative Law Judge Decision (“Recommended Decision”). The Director of the Arizona Department of Insurance and Financial Institutions (“Director”) received the Recommended Decision on the same date, a copy of which is attached and incorporated by reference. The Director has reviewed the Recommended Decision and enters the following:

1. The Director ADOPTS the Recommended Findings of Fact.
2. The Director ADOPTS the Recommended Conclusions of Law.
3. The Director ADOPTS the Recommended Order.
4. The Director ORDERS that Philip M. Giese’s Arizona insurance producer license, number 6723490, is revoked effective immediately.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Respondent may request a rehearing or review with respect to this Order by filing a written motion with the Director within 30 days after the date of this Order, setting forth the basis for relief under Arizona Administrative Code R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to the Superior Court.

Respondent may appeal the final decision of the Director to the Superior Court of

1 Maricopa County for judicial review, pursuant to A.R.S. § 20-166. A party filing an appeal
2 must notify the Office of Administrative Hearings of the appeal within ten days after filing the
3 complaint commencing the appeal, pursuant A.R.S. § 12-904(B).

4 DATED and EFFECTIVE this 1st day of December, 2021.

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8 Evan G. Daniels, Director
9 Arizona Department of Insurance and
10 Financial Institutions
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1 **COPY** of the foregoing electronically transmitted
this 2nd day of December, 2021, to:

2 Velva Moses-Thompson, Administrative Law Judge
3 Office of Administrative Hearings
4 <https://portal.azoah.com/submission>

5 **COPY** of the foregoing mailed by U.S. Certified Mail,
6 Electronic Receipt Requested, same date to:

7 Philip M. Giese
8 4725 S. Flagstaff Ranch Rd.
9 Flagstaff, AZ 86005-2594
Respondent 9489 0090 0027 6266 7767 54

10 Philip M. Giese
11 c/o Giese & Eden Insurance Group, LLC
12 1750 S. Railroad Springs Blvd., Ste. 9
13 Flagstaff, AZ 86001 9489 0090 0027 6266 7767 47

14 **COPY** of the foregoing electronically delivered same date to:

15 Deian Ousounov, Regulatory Legal Affairs Officer
16 Ana Starcevic, Paralegal Project Specialist
17 Steven Fromholtz, Division Manager
18 Wendy Greenwood, Investigator
19 Aquellah Currie, Licensing Supervisor
20 Linda Lutz, Legal Assistant
21 Arizona Department of Insurance and Financial Institutions
22 100 North 15th Avenue, Suite 261
23 Phoenix, Arizona 85007

24 **COPY** sent same date via electronic mail to:

25 Philip M. Giese
26 phil@ge-ins.com
Respondent

Philip M. Giese
Ges202@yahoo.com
Respondent

1 Holly Wan, Assistant Attorney General

Holly.Wan@azag.gov

2 AdminLaw@azag.gov

Attorney for the Arizona Department of Insurance and Financial Institutions

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4 *Ana Starcevic*
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 21A-063-INS

GIESE, PHILIP M.
(National Producer No. 6723490)

**ADMINISTRATIVE LAW JUDGE
DECISION**

Respondent.

HEARING: October 28, 2021

APPEARANCES: Respondent Philip M. Giese did not appear. Assistant Attorney General Holly Wan appeared on behalf of the Arizona Department of Insurance and Financial Institutions.

ADMINISTRATIVE LAW JUDGE: Velva Moses-Thompson

FINDINGS OF FACT

1. At all times relevant to this matter, Respondent Philip M. Giese held National Producer license No. 6723490 issued by the Arizona Department of Insurance and Financial Institutions (Department).

2. Dan Curtis is the owner of an automotive shop.

3. From February 11, 2019 through February 20, 2020, Mr. Curtis and Mr. Giese exchanged e-mail messages regarding insurance quotes for Mr. Curtis's business.

4. On February 11, 2019, Mr. Giese sent insurance quotes to Mr. Curtis. Mr. Giese explained that Liberty Mutual Insurance (Liberty Mutual) would be less expensive for Mr. Curtis's business policy. See Exhibit 3. Mr. Giese thanked Mr. Curtis for allowing him to provide an insurance quote. See id.

5. On February 12, 2020, Mr. Curtis inquired with Mr. Giese about a policy for the current year. See Exhibit 3.

1 6. On February 14, 2020, Mr. Giese notified Mr. Curtis that policies could
2 begin that afternoon. See Exhibit 3. Mr. Giese notified Mr. Curtis that he would send
3 new quotes with premiums and would be in touch in the afternoon. See id.

4 7. From April 6, 2020 to April 24, 2020, a series of e-mail messages were
5 sent from Liberty Mutual to Mr. Giese regarding the insurance quote for Mr. Curtis.

6 8. On April 6, 2020, Sharon Irvin, a Senior Underwriting Assistant at Liberty
7 Mutual Insurance, informed Mr. Giese that the new business quote was not issued for
8 Mr. Curtis. See Exhibit 8. Ms. Irvin requested that Mr. Giese access and complete the
9 billing screens if he intended to issue the quote. See id.

10 9. On April 23, 2020, Jennifer Melton, an Underwriting Specialist-Express at
11 Liberty Mutual, notified Mr. Giese that the payment was received but had not been
12 submitted for issuance. See Exhibit 8. Ms. Melton requested that Mr. Giese issue the
13 policy for Mr. Curtis. See id.

14 9. On April 23, 2020, Jolene Pudenz, an Agency Consultant at Agents
15 Alliance Services, asked Mr. Giese whether he would bind the policy. See Exhibit 8.

16 10. On April 24, 2020, Ms. Melton sent the following e-mail message to
17 Ms. Pudenz:

18 "...This still has not be sent over to issue. It has an effective
19 date of 4/4/2020. If the policy is not issued by Tuesday, April
20 28; I will tell our billing department to return the money and do
21 not consider this account bound..."

22 11. On March 14, 2021, Mr. Curtis sent an email to Mr. Giese that provided,
23 "We are getting near the end of our insurance term. Please confirm that we are good for
24 2021 and advise on the premium for the upcoming term." See Exhibit 3.

25 12. On April 28, 2020, Ms. Melton notified Ms. Pudenz she would return the
26 premium to the insured because the account was not submitted for issuance.
27 See Exhibit 8.

28 13. Mr. Giese believed that he had obtained insurance with Liberty Mutual for
29 the timeframe of April 2020 to April 2021. Mr. Giese made three credit card payments to
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1 Liberty Mutual for the policy. See Exhibit 4. However, Liberty Mutual refunded the
2 payments in full to Mr. Giese in September of 2020. See id.

3 14. Deborah Waller is Mr. Curtis's spouse.

4 15. On April 7, 2021, the Arizona Department of Insurance and Financial
5 Institutions received a complaint from Deborah Waller, Mr. Curtis's spouse, that she and
6 Mr. Curtis had been unable to reach Mr. Giese. Ms. Waller notified the Department that
7 Mr. Curtis believed that he had an insurance for his automotive shop and had not heard
8 back from Mr. Giese regarding a renewal.

9 16. Department Investigator Jeff Eavenson investigated the complaint.

10 17. On April 21, 2021, Investigator Eavenson sent an e-mail message to
11 Mr. Giese at his address of record: phil@ge.ins.com. See Exhibit 5. Investigator
12 Eavenson notified Mr. Giese that the investigation was originally opened because
13 Mr. Curtis was attempting to contact Mr. Giese. However, because Mr. Curtis
14 complained that he was left uninsured, Investigator Eavenson requested that Mr. Giese
15 provide a written statement regarding the incident and address the concerns in the
16 complaint. Investigator Eavenson notified Mr. Giese of the following:¹

17 Curtis states that he paid either you or Liberty Mutual the
18 premium to fund this policy. Curtis states that in September
19 2020, Liberty Mutual returned his premium and later learned
20 that no policy existed.

21 18. On May 14, 2020, Mr. Giese sent an e-mail message to the Department.
22 Mr. Giese alleged that after Mr. Curtis requested a quote from Nationwide Insurance,
23 Mr. Giese subsequently discovered that the scope of work under Mr. Curtis's business
24 was outside of the scope of Nationwide. See Exhibit 6. Mr. Giese alleged that he notified
25 Mr. Curtis that Nationwide declined to write the policy and that Nationwide notified
26 Mr. Curtis of the decline. Mr. Giese also alleged that he communicated to Mr. Curtis
27 through a phone call that Nationwide declined to write the policy. Mr. Giese alleged that
28 Mr. Curtis informed him that he pursued other insurance options and no longer desired
29 the quote. Mr. Giese also alleged that Mr. Curtis inquired about a renewal the following

30 ¹ See id.

1 year and that he told Mr. Curtis that the policy was not written because Mr. Curtis stated
2 that he had secured a policy elsewhere. See id.

3 19. On June 3, 2021, Janice Kelleher Townsend, a Senior Paralegal Litigation
4 Specialist at Liberty Mutual, notified Investigator Eavenson that policies for Mr. Curtis
5 were never bound and the premiums were returned because Mr. Giese failed to
6 respond to critical information to bind the policies. See Exhibit 7. Ms. Townsend
7 provided Investigator Eavenson with documents related to Liberty Mutual's
8 investigation.

9 20. On June 21, 2021, Investigator Eavenson sent an email to Mr. Giese
10 requesting a statement from Mr. Giese regarding why he failed to place the Liberty
11 Mutual Policy for Mr. Giese and why he did not address the Liberty Mutual matter in his
12 initial response to the Department. See Exhibit 9. The message was sent to the e-mail
13 address: ges202@yahoo.com. Investigator Eavenson also requested that Mr. Giese
14 update his current email and mailing address of record with the Department. See id.

15 21. On July 7, 2021, Investigator Eavenson notified Mr. Giese by e-mail that
16 he would submit the case to the Arizona Attorney General's office and that the
17 Department would see a revocation of Mr. Giese's insurance producer's license. See
18 Exhibit 10.

19 22. Mr. Giese did not respond to Investigator Eavenson's June 21, 2021 and
20 July 7, 2021 e-mails.

21 23. The Department mailed the Notice of Hearing to Mr. Giese at his business
22 and mailing addresses of record.

23 24. Although the beginning of the duly noticed hearing was delayed
24 approximately 15 minutes, Mr. Giese did not appear personally or through a duly
25 authorized representative, contact the Office of Administrative Hearings to request a
26 continuance or that the time for the hearing be further delayed, or present any evidence
27 at the hearing to defend his license.

28 25. The Department appeared through its attorney and presented the testimony
29 of its Investigations Supervisor Wendy Greenwood.

Arizona Department of Real Estate

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