

APR 22 1999

DEPT. OF INSURANCE
BY CB

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6

7 STATE OF ARIZONA

8 DEPARTMENT OF INSURANCE

9	In the Matter of:)	No. 99A-038-INS
)	
10	SHARILYN KAY SPRINGER,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW AND ORDER
11	Respondent.)	
)	

12
13 On March 24, 1999, the Arizona Department of Insurance (the "Department") issued a Notice
14 of Hearing ("Notice") in this matter, a copy of which is attached and incorporated herein by this
15 reference. The Notice required Sharilyn Kay Springer ("Respondent") to provide written answers to
16 the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date,
17 Respondent has failed to file an answer. On April 21, 1999, counsel for the Department filed a
18 Request for Default and proposed Findings of Fact, Conclusions of Law and Order. As of this date,
19 Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-106(D), a party
20 that fails to file an answer within the time provided shall be deemed to be in default and one or more
21 of the allegations in the Notice of Hearing may be deemed to be admitted.

22 FINDINGS OF FACT

- 23 1. Notice was proper.
- 24 2. Sharilyn Kay Springer is in default.
- 25 3. The allegations in the Notice of Hearing are deemed admitted.

26 CONCLUSIONS OF LAW

The conduct alleged in the Notice of Hearing constitutes grounds for the Director to suspend,

1 revoke or refuse to renew Ms. Springers's license to transact insurance in Arizona, within the meaning
2 of A.R.S. § 20-316(A).

3 **ORDER**

4 IT IS ORDERED:

5 1. All insurance licenses held by Sharilyn Kay Springer are revoked effective upon the
6 issuance of this Order.

7 2. The hearing set for April 30, 1999 is vacated.

8
9 DATED this 21^{rst} day of April, 1999.

10
11 
12 _____
13 CHARLES R. COHEN, Director
14 Arizona Department of Insurance

15 COPY of the foregoing mailed this 22nd day
16 of April, 1999, to:

17 Sara M. Begley, Deputy Director
18 Maureen Catalioto, Licensing Supervisor
19 John D. Gagne, Assistant Director
20 Susana D. Leismeister, Investigator
21 Arizona Department of Insurance
22 2910 North 44th Street, Suite 210
23 Phoenix, Arizona 85018


24 Lewis D. Kowal, Administrative Law Judge
25 Office of Administrative Hearings
26 1700 West Washington, Suite 602
Phoenix, Arizona 85007

27 Sharilyn Kay Springer
28 6527 Draw Lane
29 Sarasota, Florida 34238

30 Shelby L. Cuevas
31 Assistant Attorney General
32 1275 West Washington Street
33 Phoenix, Arizona 85007

1 Continental Life Insurance of Brentwood, TN
101 Continental Plaza
2 Post Office Box 1188
Brentwood, Tennessee 37024-1188
3

4 Randy W. Niles
Office of Administrative Hearings
1700 West Washington, Suite 602
5 Phoenix, Arizona 85007

6 
7

65440 [CPA99-061]

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STATE OF ARIZONA DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE BY [Signature]

RECEIVED

In the Matter of SHARILYN KAY SPRINGER Respondent.

Docket No. 99A-038-INS NOTICE OF HEARING

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§20-161 through and including 20-165, A.R.S. Title 41, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director"), or the Director's duly designated representative, on the 30th day of April, 1999 at 1:30 p.m., at the Office of Administrative Hearings at 1400 West Washington Street, Suite 101, 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(B) 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 supporting evidence and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, if respondent is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. §20-161(B).

1 Pursuant to A.R.S. §41-1092.07(D), a clear and accurate record of the
2 proceedings will be made by a court reporter or by electronic means. Any
3 party that requests a transcript of the proceeding shall pay the cost of the
4 transcript to the court reporter or other transcriber.

5 Questions concerning issues raised in this Notice of Hearing should be
6 directed to Assistant Attorney General Shelby L. Cuevas (602) 542-3702, 1275
7 West Washington, Phoenix, Arizona 85007.

8 NOTICE OF APPLICABLE RULES

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

13 PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A
14 WRITTEN ANSWER WITHIN 20 DAYS AFTER ISSUANCE ON THIS NOTICE OF
15 HEARING AND SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE
16 ASSISTANT ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER
17 SHALL STATE RESPONDENT'S POSITION OR DEFENSE AND SHALL
18 SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE OF
19 HEARING. ANY ASSERTION NOT DENIED SHALL BE DEEMED TO BE
20 ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL BE
21 DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENT
22 SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE
23 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.

27 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
28 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR
ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR

1 ACCOMMODATIONS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW
2 TIME TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE
3 ACCOMMODATIONS, PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE
4 HEARINGS AT 542-9826.

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

6 1. Respondent Sharilyn Kay Springer ("Springer") is, and was at
7 all material times, licensed as a nonresident disability agent, Arizona
8 license number 61273, which license expires April 30, 2000.

9 2. On or about February 27, 1998, Respondent filed an application
10 ("1998 Application") for a nonresident disability insurance agent license.
11 Section V, Question B of the application asks "Have you had any
12 professional, vocational, business license or certification refused, denied,
13 suspended, revoked or restricted, or a fine imposed by any public authority
14 that has not previously been disclosed by you to this agency in a license
15 application?"

16 3. Respondent answered "No" to Section V, Question B of the 1998
17 Application.

18 4. Section V, Question D of the 1998 Application asks "Have you
19 had any judgment, order or other determination, including any criminal
20 conviction issued or made against you in any criminal, civil, administrative
21 or other judicial or quasi-judicial proceeding of any kind in any
22 jurisdiction that has not previously been disclosed by you to this agency in
23 a license application based on any of the following:

- 24 1. Misappropriation, conversion or the withholding of monies?
- 25 2. Incompetence or a source of injury and/or loss to anyone?
- 26 3. Dishonesty in business or financial matters?
- 27 4. Fraud or misrepresentation?
- 28 5. Any cause arising out an insurance transaction?"

1 5. Respondent answered "No" to Section V, Questions D (1), (2),
2 (3), (4) and (5) of the 1998 Application.

3 6. On or about May 10, 1996 the Florida Insurance Commissioner
4 issued an Administrative Complaint In the Matter of Sharilyn Kay Springer,
5 Case No, 14823-95-A, alleging that Respondent demonstrated a lack of fitness
6 or trustworthiness to engage in the business of insurance; engaged in
7 fraudulent or dishonest practices in the conduct of business under the
8 license; and engaged in misappropriation, conversion or unlawful withholding
9 of moneys belonging to insurers or insureds or beneficiaries or to others and
10 received in conduct of business under the insurance license.

11 7. On or about October 15, 1996, the Florida Insurance
12 Commissioner filed a Consent Order In the Matter of Sharilyn Kay Springer,
13 Case No. 14823-95-A to resolve the issues set forth in the Administrative
14 Complaint. In this Consent Order, Respondent was placed under a six (6)
15 month period of probation and ordered to pay a civil penalty of \$1,000 and
16 costs of \$1,000 to the Florida Department of Insurance.

17 8. Respondent failed to disclose the Consent Order on her 1998
18 Application.

19 9. Respondent's conduct as alleged above constitutes a record of
20 Odishonesty in business or financial matters within the meaning of A.R.S.
21 §20-290 (B)(2).

22 10. Respondent's conduct as alleged above constitutes cause for
23 which original issuance or renewal of a license could have been refused
24 within the meaning of A.R.S. §20-316(A)(1).

25 11. Respondent's conduct as alleged above constitutes the willful
26 violation or noncompliance with any provision of Title 20, within the meaning
27 of A.R.S. §20-316(A)(2).
28

1 12. Respondent's conduct as alleged above constitutes
2 misrepresentation or fraud in obtaining or attempting to obtain any insurance
3 license within the meaning of A.R.S. §20-316(A)(3).


4 13. Based upon the above violations, grounds exist for the Director
5 to suspend, revoke or refuse to renew Respondent's insurance license, impose
6 a civil penalty upon her, and/or order restitution, pursuant to A.R.S.
7 §20-316(A) and §20-316(C).

8 WHEREFORE, if after hearing, the Director makes a finding of one or
9 more of the above described allegations, the Director may suspend, revoke or
10 refuse to renew Respondent's insurance license, impose a civil penalty upon
11 her, and/or order restitution pursuant to A.R.S. §20-316(A) and §20-316(C).

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

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

24 DATED this 18th day of March, 1999.

25 
26 _____
27 CHARLES R. COHEN, Director
28 Arizona Department of Insurance

1 Copies of the foregoing mailed
this 24th day of March, 1999 to:

2 Office of Administrative Hearings
3 1400 West Washington, Suite 101
Phoenix, Arizona 85007


4 Shelby L. Cuevas
5 Assistant Attorney General
1275 West Washington Street
6 Phoenix, Arizona 85007
Attorney for the Department

7 Sara Begley, Deputy Director
8 Vista Brown, Executive Assistant for Policy Affairs
John D. Gagne, Assistant Director
9 Catherine M. O'Neil, Consumer Legal Affairs Officer
Maureen Catalioto, Licensing Supervisor
10 Susana D. Leismeister, Investigator
Arizona Department of Insurance
11 2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

12 Sharilyn Kay Springer
13 6527 Draw Lane
Sarasota, Florida 34238

14 A courtesy copy of this Notice of Hearing has been mailed/delivered to
15 the persons listed below. If you are listed below, you will receive not
16 further notices or documents concerning this matter other than the director's
17 final order. Information about the status of this matter, including whether
the hearing 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) 542-3702.

18 Continental Life Ins Co of Brentwood, TN
19 101 Continental Plaza
Post Office Box 1188
20 Brentwood, TN 37024-1188

21 
22 Curvey Walters Burton
23
24
25
26
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