

JAN 3 2006

DEPT OF INSURANCE
BY

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

MARY HELEN WHISIKER

Respondent.

No. 06A-199-INS

ORDER

On December 27, 2006, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Lewis D. Kowal, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on December 29, 2006, a copy of which is attached and incorporated by this reference. The Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

1. The Recommended Findings of Fact and Conclusions of Law are adopted.
2. Respondent's producer's license shall be revoked on the effective date of the Order entered in this matter.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing with respect to this order by filling a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. 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 Superior Court.

Respondent may appeal the final decision of the Director to the Superior Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of Administrative Hearings of the appeal within ten days after filing

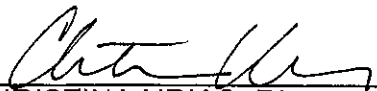
1 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

2

3 DATED this 2nd day of January, 2007.

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CHRISTINA URIAS, Director
Arizona Department of Insurance

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8 COPY of the foregoing mailed this
9 3rd day of January, 2007 to:

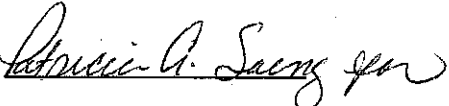
9

10 Lewis Kowal, Administrative Law Judge
11 Office of Administrative Hearing
12 1400 West Washington, Suite 101
13 Phoenix, Arizona 85007

14 Mary Kosinski, Executive Assistant for Regulatory Affairs
15 Steve Fromholtz, Licensing Supervisor
16 Arizona Department of Insurance
17 2910 North 44th Street, Suite 210
18 Phoenix, Arizona 85018

19 Jennifer A. Boucek
20 Assistant Attorney General
21 1275 West Washington Street
22 Phoenix, Arizona 85007-2926

23 Mary Helen Whisiker
24 2472 W. Sumaya Way
25 Tucson, Arizona 85741

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Curvey Burton

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA
RECEIVED

DEC 29 2006

DIRECTOR'S OFFICE
INSURANCE DEPT.

In the Matter of:

No. 06A-199-INS

MARY ALLEN WHISIKER

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: December 14, 2006

APPEARANCES: Assistant Attorney General Jennifer Boucek for the Arizona Department of Insurance; Mary Allen Whisiker did not appear at the hearing

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

FINDINGS OF FACT

1. At all times material to this matter, Mary Allen Whisiker ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department") as a life producer.
2. On February 3, 2006, the Department issued Respondent a life producer license, license number 857447 ("License"), which expires on December 31, 2009.
3. On May 11, 2006, the Department issued a letter to Respondent that was mailed to her address of record, informing her that her fingerprint card could not be processed and was returned by the Arizona Department of Public Safety ("DPS") as illegible. In that letter, the Department requested that Respondent submit a replacement set of fingerprints and enclosed a blank replacement fingerprint form. The Department provided a deadline of June 14, 2006 for the return of the completed replacement fingerprint form.
4. Because the Department did not receive the requested replacement fingerprint form from Respondent as requested, the Department sent another letter to Respondent on July 14, 2006, certified mail, return receipt requested, giving Respondent a deadline

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1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 of fifteen days from the date of the letter to file a replacement fingerprint form with the
2 Department.

3 5. The Department submitted as an exhibit a signed receipt card that showed the
4 certified letter of July 14, 2006 was returned to the Department as unclaimed. See
5 Exhibit 5.

6 6. Steven Fromholtz ("Mr. Fromholtz"), Producer Licensing Administrator for the
7 Department, testified that, to date, the Department has not received any communication
8 from Respondent in response to the above-mentioned letters and the Department has
9 not received a replacement fingerprint form from Respondent.

10 7. Mr. Fromholtz testified that when an application for a producer's license is
11 received is processed, the fingerprint card is reviewed to make sure there are no blank
12 spaces. The card is then forwarded to the DPS for processing, which includes
13 processing by the Federal Bureau of Investigation.

14 8. According to Mr. Fromholtz, until the fingerprint card is processed and returned
15 to the Department and a criminal background history search is conducted, with the
16 results provided to the Department, the license application process has not been
17 completed.

18 CONCLUSIONS OF LAW

19 1. This matter is a disciplinary proceeding wherein the Department must prove by a
20 preponderance of the evidence that Respondent violated the State's Insurance Laws.
21 See A.AC. R2-19-119.

22 2. During the application process, the Director of the Department required
23 Respondent to submit a full set of fingerprints and Respondent's illegible fingerprint
24 submission did not satisfy that requirement. See A.R.S. § 20-285(F)(2).

25 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-
26 295(A)(1), by having failed to provide complete information in the license application.

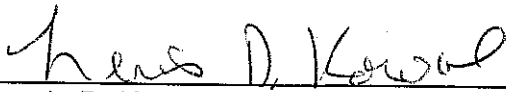
27 4. Respondent's conduct, as set forth above, constitutes the violation of any
28 provision of A.R.S., Title 20, within the meaning of A.R.S. § 20-295(A)(2).

29 5. Grounds exist for the Director of the Department to suspend, revoke, or refuse to
30 renew the License pursuant to A.R.S. §§ 20-295(A).

1
2 ORDER

3 Based upon the above, the License shall be revoked on the effective date of the
4 Order entered in this matter.

5 Done this day, December 27, 2006.
6

7
8 
9 _____
10 Lewis D. Kowal
11 Administrative Law Judge

12 Original transmitted by mail this
13 28 day of December, 2006, to:

14
15 Department of Insurance
16 Christina Urias, Director
17 2910 North 44th Street, Ste. 210
18 Phoenix, AZ 85018

19 By 
20 _____