

1 must notify the Office of Administrative Hearings of the appeal within ten days after filing
2 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

3 DATED this 24th day of March, 2008.

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CHRISTINA URIAS, Director
Arizona Department of Insurance

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COPY of the foregoing mailed this
25th day of March, 2008 to:

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Mary Kosinski, Executive Assistant for Regulatory Affairs
Catherine O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Licensing Director
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

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Liane C. Kido
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Robert Diaz Castillo
2701 E. Thomas Rd., Suite G
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Petitioner

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Robert Diaz Castillo
1035 E. Meadowlane
Phoenix, Arizona 85022
Petitioner

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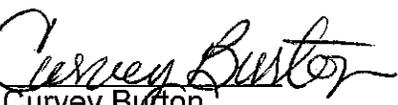
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Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

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Curvey Burton

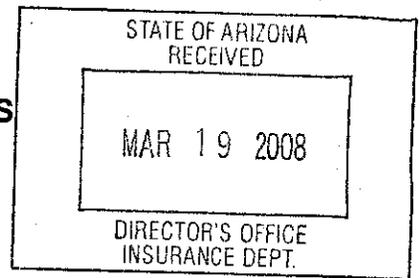
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS



In the Matter of:

ROBERT DIAZ CASTILLO,

Petitioner.

No. 08A-007-INS

ADMINISTRATIVE LAW JUDGE

DECISION

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HEARING: March 5, 2008

APPEARANCES: The Applicant-Appellant appeared in his own behalf.
Liane Kido, Assistant Attorney General, represented the State.

ADMINISTRATIVE LAW JUDGE: Allen Reed

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Findings of Fact

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There are no significant factual disputes in this case. The Applicant-Appellant's position is that despite the facts of the case, he has learned from his mistakes and matured to the extent that he is a more reliable and trustworthy person. Based on the undisputed evidence, the following facts are submitted.

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1. The Appellant is a licensed medical doctor in Arizona specializing in psychiatry.
 2. On November 29, 2007 the Appellant submitted an application for an Insurance Agent (Producer's) license to the Arizona Department of Insurance (Department).
 3. The Appellant acknowledged in his application that he had a professional license disciplined.¹
 4. On December 26, 2007, the Department denied the Appellant's application based on information surrounding the Appellant's medical license. The history of discipline by the Arizona Board of Medical Examiners² (Board) is as follows.
 5. In February 1989, the Appellant entered a Stipulation to Findings of Fact, Conclusions of Law and Order with the Board. The basic facts of the case are an

¹ The application references numerous types of discipline from denial of a license to a fine.

² Now the Arizona Medical Board.

1 are an admission that certain conduct by the Appellant was grounds for discipline
2 and reflected mental inability to safely engage in the practice medicine,
3 unprofessional conduct, and failure to furnish information in a timely manner to
4 the Board. The case concerned the Appellant's failure to produce written
5 comments and records for a patient (C.A.), to the Board. The Appellant did not
6 comply with Board subpoena for those records. The Appellant failed to comply
7 with a Board subpoena that he appear for an Investigational Interview. The
8 Appellant began care and treatment by a psychiatrist. The Appellant was
9 diagnosed with bi polar mood disorder manifested by cycles of retarded
10 depression and hypomania. The condition had been "obscured" over the past ten
11 years.

- 12 6. On May 10, 1990 the Appellant entered a Stipulation and Amended order with
13 the Board, whereby the Appellant would continue care and treatment with his
14 therapist as necessary, submit quarterly reports to the Board regarding the
15 Appellant's condition and progress, and such other conditions as stated in the
16 Stipulation.³
- 17 7. On March 14, 1997, the Board issued a Letter of Reprimand to the Appellant for
18 failure to provide requested information and respond to subpoenas for medical
19 records for certain patients, and signing a blank prescription.
- 20 8. On April 24, 1997, the Appellant entered a Stipulation and Order with the Board
21 whereby he agreed to submit to certain evaluations, to engage the services of a
22 Practice Management Consultant, and obtain 30 hours of continuing medical
23 education.
- 24 9. On September 9, 1999, the Appellant entered a Consent Agreement to
25 Probationary Order with the Board limiting his practice to psychiatry, with the
26 Board to review records and conduct random audits of Dr. Castillo's office, with
27 Dr. Castillo to obtain a Board approved proctor to oversee prescriptions of
28 Schedule II medications.

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30 ³ Each and every condition of the Stipulation (Exhibit 6) does not require repetition in this decision. Suffice
it to say the Board required that the Appellant continue to be monitored and the Board informed.

1 10. On August 29, 2000, the Board entered a decision and a Letter of Reprimand
2 against the Appellant for unprofessional conduct (violation of a Board Order,
3 probation, consent agreement or stipulation). Additional conditions limiting the
4 Appellant's practice were placed on Dr. Castillo (Exhibit 10).

5 11. On September 19, 2006 the Appellant entered an Interim Consent Agreement
6 with the Board after an evaluation opined the Appellant was unfit to practice
7 medicine⁴. The Appellant was prohibited from the practice of clinical medicine or
8 medicine involving direct patient care including issuing prescriptions.

9 **Conclusions of Law**

10 The department cited A.R.S. §20-295(A)(8) as the reason for the denial. The
11 statute provides in pertinent part that the Director may deny a license to an applicant
12 who demonstrates incompetence and untrustworthiness⁵ to conduct business in the
13 state.⁶

14 A.R.S. §41-1092.07(G) the Applicant for a license or permit has the burden of
15 persuasion.

- 16 1. The Appellant –Applicant presented no evidence⁷ other than his testimony that
17 he was presently sufficiently reliable and trustworthy to hold the license for which
18 he was applying.
- 19 2. In view of the fact that the Appellant has the burden or persuasion, and in light of
20 the numerous recorded problems with the Medical Board which show the
21 Appellant has previously not complied or cooperated with reasonable Board
22 requests for information, investigations, subpoenas, and certain required medical
23 practices, it is clear the Appellant has not met his legal burden to show he would
24 perform any differently as an insurance agent.

25 **Recommended Order**

26 It is recommended that the denial of the Appellant's application for an Insurance
27 Producer's License be affirmed.

28 ⁴ The Appellant testified he had written a prescription for a patient's daughter without personally treating
the daughter except to speak to her over the telephone.

29 ⁵ Untrustworthiness can mean more than mere dishonesty in that it can also mean a person cannot be
trusted to comply with the requirements of a profession by virtue of factors beyond their volitional control.

30 ⁶ The Department withdrew A.R.S. §20-295(A)(9) as a basis for denial).

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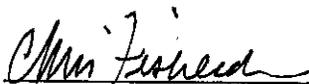
Done this day, March 14, 2008



Allen Reed
Administrative Law Judge

Original transmitted by mail this
18 day of March, 2008, to:

Christina Urias, Director
Department of Insurance
2910 North 44th Street, Ste. 210
Phoenix, AZ 85018

By  _____

⁷ The Appellant did not submit any character witnesses or references.
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