

DEC 3 2008

DEPT OF INSURANCE
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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:
FERNANDO ALBERTO CASILLAS,
Respondent.

No. 08A-143-INS
ORDER

On November 18, 2008, 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 November 20, 2008, 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 Director adopts the Recommended Findings of Fact and Conclusions of Law of the Recommended Decision.
2. The Director revokes Respondent's Arizona producer's license, effective immediately.

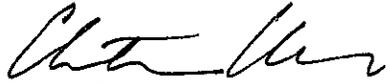
NOTIFICATION OF RIGHTS

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

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 25th day of November, 2008.

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6 CHRISTINA URIAS, Director
7 Arizona Department of Insurance

8 COPY of the foregoing mailed this
9 3rd day of December, 2008 to:

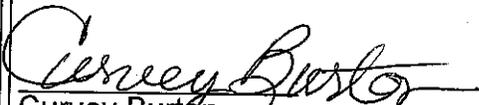
10 Office of Administrative Hearings
11 1400 West Washington, Suite 101
12 Phoenix, Arizona 85007

13 Mary Butterfield, Assistant Director
14 Catherine O'Neil, Consumer Legal Affairs Officer
15 Steve Ferguson, Assistant Director
16 Kelly Stephens, Compliance Section Manager
17 Arizona Department of Insurance
18 2910 North 44th Street, Suite 210
19 Phoenix, Arizona 85018

20 Fernando Albert Casillas
21 c/o Wells Fargo
22 259 W. First Ave.
23 Mesa, Arizona 85201
24 Respondent

25 Fernando Albert Casillas
26 125 S. Alma School Rd., Apt. 1222
Chandler, Arizona 85224
Respondent

Fernando Albert Casillas
725 N. Dobson Road, #227
Chandler, Arizona 85224
Respondent

24 
25 Curvey Burton

1 letter, which informed Respondent that he had submitted illegible fingerprints, was
2 returned to the Department with the notation on the envelope from the U.S. Postal
3 Service of "Return to Sender; Moved Left No Address; Unable to Forward; Return TO
4 Sender." Exhibit 4 at 2.

5 5. On December 20, 2007, the Department sent another letter via certified mail,
6 return receipt requested to Respondent at the above- mentioned incorrect mailing
7 address. The Department also sent the letter to Respondent at 725 Dobson Rd. #227,
8 Chandler, AZ which was reflected in the Department's records as being the most
9 current resident address for Respondent.

10 6. Mr. Fromholtz testified that the Department's records reflect that Respondent
11 changed his resident address with the Department on-line but did not change his
12 mailing address, which had been his resident address of record with the Department.

13 7. The Department believed that when Respondent had changed his resident
14 address, Respondent inadvertently did not change his mailing address. Because the
15 Department knew that Respondent was physically no longer at the former resident
16 address that was listed as Respondent's mailing address, the Department sent
17 Respondent a third letter at Respondent's most current resident address of record on
18 March 6, 2008. That letter informed him that his fingerprint card could not be
19 processed and had been returned by DPS as illegible. In the letter, the Department
20 requested that Respondent submit a replacement set of fingerprints and enclosed a
21 blank Illegible Fingerprint Replacement Form. The Department provided a deadline of
22 March 29, 2008 for the return of the completed Illegible Replacement Fingerprint Form
23 and new set of fingerprints.

24 8. On June 26, 2008, the Department sent a fourth letter to Respondent at his most
25 current resident address of record and to the prior resident address of record, which
26 was also Respondent's mailing address of record, informing him that by July 28, 2008
27 he was to submit a new set of fingerprints with an Illegible Fingerprint Replacement
28 Form or submit a Voluntary Surrender of Insurance License Form. The letter indicates
29 that the failure to respond will result in the initiation of disciplinary action being taken
30 against Respondent's license.

1 9. The Department received from the U.S. Postal Service the envelope that
2 contained the letter sent to Respondent's most current resident address of record
3 marked by the U.S. Postal Service "Unable to Forward; Return to Sender". The
4 envelope also contained writing stating "Moved-Return to Sender." Mr. Fromholtz
5 opined that the written notation was made by the person who currently resides at the
6 address where the letter was mailed.

7 10. Mr. Fromholtz testified that the Department has not received any change of
8 address notification from Respondent and that the above-mentioned letters were sent
9 to the mailing address of record the Department had for Respondent.

10 11. Mr. Fromholtz testified that to date, the Respondent has not responded to the
11 above-mentioned letters and has not submitted to the Department a new set of
12 fingerprints.

13 12. Respondent did not present any evidence to refute or rebut the evidence that the
14 Department presented.

15 CONCLUSIONS OF LAW

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

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

22 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-
23 295(A)(1), by having failed to provide complete information in the license application.

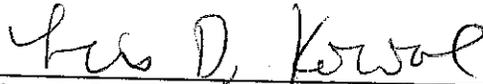
24 4. Respondent's conduct, as set forth above, constitutes the violation of any
25 provision of A.R.S., Title 20, within the meaning of A.R.S. § 20-295(A)(2).

26 5. Grounds exist for the Director of the Department to suspend, revoke, or refuse to
27 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, November 18, 2008.
6

7 

8 _____
9 Lewis D. Kowal
10 Administrative Law Judge

11 Original transmitted by mail this
12 19 day of November, 2008, to:

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14
15 Department of Insurance
16 Christina Urias, Director
17 2910 North 44th Street, Ste. 210
18 Phoenix, AZ 85018
19

20 By 
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