

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 3rd day of December, 2010.

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5 
6 CHRISTINA URIAS, Director
Arizona Department of Insurance

7
8 COPY of the foregoing mailed this
9 6th day of December, 2010 to:

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

12 Mary Butterfield, Assistant Director
13 Mary Kosinski, Exec. Asst. for Regulatory Affairs
14 Catherine O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Licensing Administrator
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

15 Jerun Henry Kerback
16 3601 Lake Mary Road, #374
Flagstaff, Arizona 86001
17 Respondent

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19 Curvey Burton

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NOV 23 2010

DIRECTOR'S OFFICE
INSURANCE DEPT.

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 10A-091-INS

KERBACK, JERUN HENRY
(Arizona License No. 941479)
(NPN No. 13928837)

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: November 17, 2010

APPEARANCES: Special Assistant Attorney General Mary Kosinski on behalf of the Arizona Department of Insurance; Jerun Henry Kerback did not appear at the hearing.

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

FINDINGS OF FACT

1. At all times material to this matter, Jerun Henry Kerback ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department") as a life producer.
2. On April 7, 2009, the Department issued Respondent a life producer license, license number 941479 ("License"), which expires on May 31, 2012.
3. Steven Fromholtz ("Mr. Fromholtz"), Producer Licensing Administrator of the Licensing Section of the Department, testified that when an application for a producer's license is received and processed, it is forwarded to the Arizona Department of Public Safety ("DPS") for processing. This includes processing by the Federal Bureau of Investigation for a criminal history background check to be conducted.

1 4. The Department received a report back from DPS advising, in effect, that the
2 fingerprints submitted were illegible and a criminal history background check could not
3 be performed based upon the fingerprints.

4 5. On September 1, 2009, the Department issued a letter to Respondent that was
5 mailed to Respondent's business/ mailing address, informing Respondent that the
6 Respondent's fingerprint card could not be processed and was returned by DPS as
7 illegible. In that letter, the Department requested that Respondent submit a
8 replacement set of fingerprints and enclosed a blank Illegible Replacement Fingerprint
9 Form. The Department provided a deadline of October 2, 2009, for the return of the
10 completed replacement fingerprint form.

11 6. Because the Department did not receive the requested replacement fingerprint
12 form from Respondent as requested, the Department sent another letter to Respondent
13 at Respondent's residential address on November 25, 2009, giving Respondent a
14 deadline of December 31, 2009, to file an a new set of fingerprints and an Illegible
15 Replacement Fingerprint Form with the Department or to submit a Voluntary Surrender
16 of License Form with the Department. The Department indicated that the failure to
17 respond to the letter would result in the initiation of disciplinary action being taken
18 against Respondent's license.

19 7. Mr. Fromholtz testified that the Department has not received any change of
20 address notification from Respondent and that the above-mentioned letters were sent
21 to the addresses of record the Department had for Respondent.

22 8. Mr. Fromholtz testified that to date the Respondent has not responded to the
23 above-mentioned letters and has not submitted to the Department a new set of
24 fingerprints.

25 **CONCLUSIONS OF LAW**

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

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

4 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-
5 295(A)(1) by having failed to provide complete information in the license application.

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

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

10 **ORDER**

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

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14 Done this day, November 22, 2010.

15
16 /s/ Lewis D. Kowal
17 Administrative Law Judge
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19 Transmitted electronically to:

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21 Christina Urias, Director
22 Department of Insurance
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