


DEC 28 2011

DEPT OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

BRENNER, LEILA MARIE,
(Arizona License No. 968398)
(NPN # 15814835)

No. 11A-105-INS

ORDER

Respondent:

On December 20, 2011, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on December 22, 2011, 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 filing 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 22nd day of December, 2011.

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6 CHRISTINA URIAS, Director
7 Arizona Department of Insurance

8 COPY of the foregoing mailed this
9 28th day of December, 2011 to:

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

13 Mary Butterfield, Assistant Director
14 Mary Kosinski, Exec. Asst. for Regulatory Affairs
15 Catherine O'Neil, Consumer Legal Affairs Officer
16 Steven Fromholtz, Licensing Administrator
17 Arizona Department of Insurance
18 2910 North 44th Street, Suite 210
19 Phoenix, Arizona 85018

20 Leila Marie Brenner
21 2699 W. Chilton Street
22 Chandler, Arizona 85224
23 Respondent

24 
25 Curvey Burton

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 11A-105-INS

LEILA MARIE BRENNER
(ARIZONA LICENSE NO. 968398)
(NPN NO. 15814835)

**ADMINISTRATIVE LAW JUDGE
DECISION**

Respondent.

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HEARING: December 6, 2011

APPEARANCES: No one appeared for Respondent; Special Assistant Attorney General Mary E. Kosinski appeared for the Department of Insurance

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

1. On October 12, 2011, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 8:00 a.m. December 6, 2011.
2. No representative for Respondent Leila Marie Brenner appeared by 8:30 a.m., and the hearing was convened in Respondent's absence.
3. The Department presented the testimony of Steven Fromholtz, the Department's Producer Licensing Administrator, and had 5 exhibits introduced into evidence.
4. On June 21, 2010, Respondent submitted to the Department an application for a life producer's license. With the application, the Respondent included a copy of her fingerprints.
5. The Department granted Respondent a life producer license, No. 968398, effective June 21, 2010. Respondent's license is scheduled to expire on January 31, 2014.

1 6. The Department forwarded Respondent's fingerprints the Arizona Department of
2 Public Safety ("DPS") for a criminal records background check.

3 7. It typically takes DPS 4 to 8 weeks to conduct a criminal records background
4 check. Consequently, rather than making all applicants for licensure wait for the results
5 of the background check, the Department issues licenses while the background check
6 is pending.

7 8. DPS informed the Department that Respondent's fingerprints were not of
8 sufficient quality for use in conducting the background check.

9 9. In a letter dated November 10, 2010, the Department informed Respondent that
10 on or before December 12, 2010, she was required to submit to the Department a
11 replacement set of fingerprints. The November 10th letter was sent to Respondent's
12 business address of record.

13 10. DPS does not charge a processing fee for reviewing replacement fingerprint
14 cards.

15 11. In a letter dated January 13, 2011, the Department informed Respondent that it
16 was preparing to initiate an administrative action against her license because she had
17 not submitted a replacement set of fingerprints as required.

18 12. The January 13th letter informed Respondent that on or before January 31,
19 2011, she was required to submit the replacement set of fingerprints, or in the
20 alternative, she could surrender her license.

21 13. The January 13th letter was sent to Respondent's home address of record.

22 14. As of the hearing date, Respondent had not submitted a replacement set of
23 fingerprints and she had not surrendered her license.

24 15. Because Respondent did not submit to the Department a set of fingerprints of
25 sufficient quality for DPS's use in conducting the background check, her application is
26 not complete.

27 **CONCLUSIONS OF LAW**

28 1. This matter is a disciplinary proceeding in which the Department bears the
29 burden of persuasion. See A.R.S. § 41-1092.07(G). The standard of proof on all issues
30 is that of a preponderance of the evidence. See A.AC. R2-19-119.

1 2. A preponderance of the evidence is "[e]vidence which is of greater weight or
2 more convincing than the evidence which is offered in opposition to it; that is, evidence
3 which as a whole shows that the fact sought to be proved is more probable than not."
4 BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).

5 3. With her application, Respondent was required to submit to the Department a
6 set of fingerprints. Respondent's submission of fingerprints did not satisfy that
7 requirement because the quality was not sufficient for DPS's use in conducting the
8 required background check. See A.R.S. § 20-285(E)(2).

9 4. Respondent's conduct constitutes a violation of A.R.S., Title 20, which provides
10 grounds for the Director of the Department to revoke Respondent's license. See A.R.S.
11 § 20-295(A)(2).

12 5. Because Respondent did not submit fingerprints of sufficient quality, her
13 application is incomplete in a violation of A.R.S. § 20-295(A)(1), which also provides
14 grounds for the Director of the Department to revoke Respondent's license.

15 **RECOMMENDED ORDER**

16 **IT IS ORDERED** that Respondent Leila Marie Brenner's life producer license No.
17 968398 is revoked.

18 *In the event of certification of the Administrative Law Judge Decision by the Director of*
19 *the Office of Administrative Hearings, the effective date of the Order will be the date of*
20 *that certification.*

21 Done this day, December 20, 2011.

22 /s/ Thomas Shedden
23 Thomas Shedden
24 Administrative Law Judge

25 Transmitted electronically to:

26 Christina Urias, Director
27 Department of Insurance
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