

OCT 1 8 2003

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY Rath

In the Matter of:)	Docket No. 03A-114-INS
)	
CORINA MARINA MERCADO,)	ORDER
)	
Respondent.)	
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On September 26, 2003, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, issued an Administrative Law Judge Decision ("Recommended Decision"), 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 insurance producer license shall be revoked, effective the date of this Order.


NOTIFICATION OF RIGHTS

Pursuant to A.R.S. § 41-1092.09, the aggrieved party 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.

The final decision of the Director may be appealed 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

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

3 DATED this 8th of October, 2003

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5 _____
6 Charles R. Cohen
7 Director of Insurance

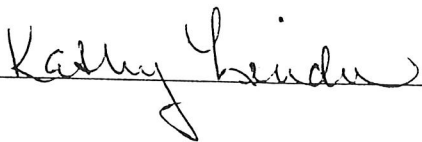
8 A copy of the foregoing mailed
9 this 10th day of October, 2003

10 Gerrie L. Marks, Acting Deputy Director for Regulatory Affairs
11 Mary Butterfield, Assistant Director
12 Catherine O'Neil, Consumer Legal Affairs Officer
13 Rebecca Sanchez, Producer Licensing Administrator ✓
14 Arnold Sniegowski, Investigations Supervisor
15 Carmen Haga, Investigator
16 Arizona Department of Insurance
17 2910 N. 44th Street, 2nd Floor
18 Phoenix, AZ 85018

19 Office of Administrative Hearings
20 1400 W. Washington, Suite 101
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22 Mary Kosinski
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Corina M. Mercado
6901 W. McDowell Road, #24102
Phoenix, AZ 85035



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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 03A-114-INS

CORINA MARINA MERCADO,

**ADMINISTRATIVE
LAW JUDGE DECISION**

Respondent.

HEARING: September 9, 2003

APPEARANCES: Assistant Attorney General Mary Kosinski on behalf of the
Arizona Department of Insurance; Corina Marina Mercado on her own behalf

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

FINDINGS OF FACT

1. Corina Marina Mercado ("Ms. Mercado") is currently licensed as a residential personal lines (property and casualty) producer in the State of Arizona.

2. On August 5, 2002, Ms. Mercado submitted an application for an individual insurance producer license ("Application") to the Arizona Department of Insurance ("Department").

3. Ms. Mercado responded 'Yes' to Section VII, Subsection A of the Application asked:

Have you ever been convicted of a felony? For the purpose of this application, 'convicted' includes, but is not limited to, having been found guilty by judge or jury or pled guilty to no contest to any felony charge. A 'No' response is incorrect if applicant had had any conviction dismissed, expunged, pardoned, appealed, set aside or reversed, or had its civil rights restored, had a plea withdrawn or has been given probation, a suspended sentence or fine, or successfully completed a diversion program.

4. Department Investigator Helene Tomme ("Investigator Tomme") testified that the Department inadvertently issued a producer license to Ms. Mercado. Investigator

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Phoenix, Arizona 85007
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1 Tomme also testified that the instruction form accompanies the insurance application
2 form.

3 5. Ms. Mercado failed to provide any supporting documentation that was required
4 pursuant to the instructions that accompanied the Application.

5 6. During the hearing, Ms. Mercado testified that she did not submit to the
6 Department any other documents along with the Application. Ms. Mercado did not
7 recall whether she had received the instruction form to the Application when she
8 received the Application.

9 7. Investigator Tomme testified that subsequent to the issuance of the above-
10 mentioned license, Investigator Tomme received information pertaining to a felony
11 conviction that Ms Mercado had and Investigator Tomme's supervisor requested that
12 she obtain court documents regarding the conviction.

13 8. Investigator Tomme testified that she requested documents from the Maricopa
14 County Superior Court concerning Ms. Mercado. The documents Ms. Tomme obtained
15 from the Court were admitted into evidence with no objection from Ms. Mercado. Those
16 documents establish that on March 16, 2000, a complaint was filed in State of Arizona
17 v. Corina M. Mercado in South Phoenix Justice Court Case No. CR00-00461A-FE,
18 charging Ms. Mercado with Forgery, a Class 4 Felony, for presenting a forged
19 instrument with intent to defraud, to wit, a fraudulent insurance card.

20 9. On June 1, 2000, Ms. Mercado pled guilty to Solicitation to Commit Forgery, a
21 Class 6 Undesignated Felony offense in the above-mentioned case.

22 10. On June 2, 2000, an Order Holding Defendant to Answer before the Maricopa
23 Superior Court was entered in the above-mentioned case.

24 11. Investigator Tomme and Ms. Mercado testified that the above-mentioned
25 Phoenix Justice Court case was transferred to the Maricopa Superior Court as State of
26 Arizona v. Corina M. Mercado, case number CR2000-009048 ("CR2000-009048").

27 12. On June 9, 2000, an Information was entered in CR 2000-009048, charging Ms.
28 Mercado with Forgery, a Class 4 Felony.

29 13. On August 16, 2000, a Judgment and Order Suspending Sentence and Imposing
30 Conditions of Probation was entered in CR2000-009048 finding Ms. Mercado guilty of

1 Solicitation to Commit Forgery, a Class 6 Undesignated Felony, and ordered two years
2 probation, 100 hours of community service, and fees and fines be paid.

3 14. Ms. Mercado testified that she successfully completed the terms of her
4 probation.

5 15. On August 5, 2002, an Order of Discharge for Probation was filed in Case No.
6 CR 2000-009048 releasing Ms. Mercado from probation and reducing the Class 6
7 Undesignated Felony to a misdemeanor.

8 16. The Department acknowledged that it mistakenly issued Ms. Mercado an
9 insurance license and contended that grounds exist to revoke the license because Ms.
10 Mercado provided incomplete information to the Department.

11 17. Ms. Mercado testified that when she received her insurance license it was a
12 conditional license subject to a background check that was to be completed within three
13 months of the submission of the Application and wondered why it took the Department
14 one year to complete the background check. However, she admitted to the above-
15 mentioned conviction and acknowledged that she did not correctly provide the
16 information the Department required during the application process and characterized it
17 as being a "mistake."

18 18. It is undisputed that as of the date when the offense underlying the above-
19 mentioned conviction occurred, Ms. Mercado worked for an insurance agency and the
20 offense involved a forged automobile insurance card.

21 CONCLUSIONS OF LAW

22 1. Ms. Mercado's conduct, as set forth above, constitutes the providing of
23 incomplete information in the license application within the meaning of A.R.S. § 20-
24 295(A) (1).

25 2. Ms. Mercado's conduct, as set forth above, constitutes having admitted or been
26 found guilty of committing an insurance unfair trade practice or fraud within the meaning
27 of A.R.S. § 20-295(A) (7).

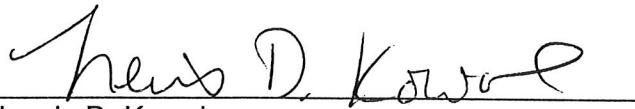
28 3. Ms. Mercado's conduct, as set forth above, constitutes using fraudulent or
29 dishonest practices or untrustworthiness in the conduct of business within the meaning
30 of A.R.S. § 20-295(A) (8).

1 4. Grounds exist for the Director of the Department to revoke or suspend or refuse
2 to renew Ms. Mercado's resident lines producer license pursuant to A.R.S. § 20-295(A)
3 and (F).

4 **RECOMMENDED ORDER**

5 Based on the above, Ms. Mercado's resident lines insurance producer license
6 shall be revoked on the effective date of the order entered in this matter.

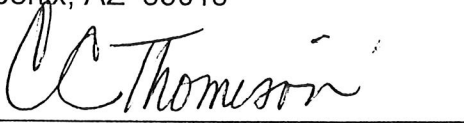
7 Done this day, September 26, 2003.

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11 Lewis D. Kowal
12 Administrative Law Judge
13

14 Original transmitted by mail this
15 6 day of September, 2003, to:

16
17 Department of Insurance
18 Charles R. Cohen
19 ATTN: Kathy Linder
20 2910 North 44th Street, Ste. 210
21 Phoenix, AZ 85018

22 By 
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