

DEC 5 2006

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY

In the Matter of:

CORY MCKAY BRIAN,

Respondent.

No. 06A-198-INS

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

On October 31, 2006, the Arizona Department of Insurance ("Department") issued a Notice of Hearing ("Notice") in the above-captioned matter, a copy of which is attached and incorporated by this reference. The Notice required Cory McKay Brian ("Brian") to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Brian has failed to file an answer. On November 30, 2006, counsel for the Department filed a Request for Default and Proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondents have not responded to the Department's request. Pursuant to A.A.C.R20-6-106(D), a party that fails to file an answer within the time provided shall be deemed to be in default and one or more of the allegations in the Notice of Hearing may be deemed to be admitted.

FINDINGS OF FACT

1. Notice was proper.
2. Respondent is in default.
3. The allegations in the Notice are deemed admitted.

CONCLUSIONS OF LAW

1. The conduct alleged in the Notice constitutes grounds for the Director to

1 suspend, revoke or refuse to renew Respondents' licenses to transact insurance in
2 Arizona, pursuant to A.R.S. §20-295 (A) and (F).

3 **ORDER**

4 IT IS ORDERED:

5 1. The insurance license held by Respondent is revoked effective upon the
6 issuance of this Order.

7 2. The hearing set for December 14, 2006, at 9:30 a.m. shall be vacated.

8 DATED this 4th day of December, 2006.

9
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11 _____
12 CHRISTINA URIAS, Director
13 Arizona Department of Insurance

14 COPY of the foregoing mailed this
15 5th day of December, 2006 to:

16 Lewis Kowal, Administrative Law Judge
17 Office of Administrative Hearings
18 1400 West Washington, Suite 101
19 Phoenix, Arizona 85007

20 **Mary Kosinski, Executive Assistant for Regulatory Affairs**
21 Steve Fromholtz, Licensing Supervisor
22 Arizona Department of Insurance
23 2910 North 44th Street, Suite 210
24 Phoenix, Arizona 85018

25 Jennifer A. Boucek
26 Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926
Attorney for the Arizona Department of Insurance

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Cory McKay Brian
4037 E. Garnet Circle
Mesa, AZ 85206
Respondent

Patricia A. Saenz
989381:CPA06-331

OCT 31 2006

DEPT OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

CORY MCKAY BRIAN,

Respondent.

No. 06A-198-INS

NOTICE OF HEARING

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165 and 41-1092 et seq., through and including 41-1066, and 41-1092.01, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director") or her duly designated representative, on the 14th day of December, 2006, at 9:30 a.m., at the Office of Administrative Hearings, 1400 West Washington Street, Suite 101, Phoenix, Arizona 85007 (the "Hearing").

Motions to continue this matter shall be made in writing to the Administrative Law Judge not less than fifteen (15) days prior to the date set for the hearing. A copy of any motion to continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of Administrative Hearings.

A.R.S. § 20-164(B) entitles any person affected by this Hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present supporting evidence in support of his interests, and to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

If Respondent is represented by counsel, the attorney shall be licensed to practice law in the State of Arizona or, if applicant is an insurer, it may be represented by a corporate officer, pursuant to A.R.S. § 20-161(B).

1 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings
2 will be made by a court reporter or by electronic means. Any party that requests a
3 transcript of the proceeding shall pay the cost of the transcript to the court reporter or other
4 transcriber.

5 Questions concerning issues raised in this Notice of Hearing should be directed to
6 Assistant Attorney General Jennifer A. Boucek (602) 542-7714, 1275 West Washington
7 Street, Phoenix, Arizona 85007-2926.

8 NOTICE OF APPLICABLE RULES

9 On January 23, 1992, the Arizona Department of Insurance adopted A.A.C. R20-6-
10 101 through R20-6-115, setting forth the rules of practice and procedure applicable in
11 contested cases before the Director of Insurance. The hearing will be conducted pursuant
12 to these rules.

13 PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN
14 ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND
15 SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT ATTORNEY
16 GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE RESPONDENT'S
17 POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR DENY EACH
18 ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT DENIED SHALL BE
19 DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN THE ANSWER SHALL
20 BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED, RESPONDENT SHALL
21 BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS ARE
22 TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE, INCLUDING SUSPENSION,
23 REVOCATION, DENIAL OF A LICENSE OR RENEWAL OF A LICENSE, IMPOSITION OF
24 A CIVIL PENALTY AND/OR ORDER RESTITUTION TO ANY PARTY INJURED.

25 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
26 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR

1 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR
2 ACCOMMODATIONS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME
3 TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS,
4 PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT (602) 542-9826.

5 The allegations supporting this Notice of Hearing are as follows:

6 1. Cory McKay Brian ("Brian") is, and was at all material times, licensed as a
7 resident accident/health and life producer, Arizona license number 859995, which expires
8 on April 30, 2009.

9 2. Brian's business and mailing address of record with the Department is: c/o
10 Allstate Financial Services, 3011 S. Lindsay Road, Gilbert, Arizona 85296. Brian's
11 residence address of record with the Department is: 4037 E. Garnet Circle, Mesa, Arizona
12 85206.

13 3. On or about March 8, 2006, the Department issued Brian an insurance
14 license as a resident accident/health and life producer producer, license number 859995.

15 4. On or about May 11, 2006, the Department notified Brian by mail at his
16 business address of record, return receipt requested, that his fingerprint card was
17 processed and returned by the Federal Bureau of Investigation ("FBI") as illegible. The
18 Department requested a replacement set of fingerprints along with a completed "Illegible
19 Fingerprint Replacement Form" on or before June 14, 2006.

20 5. On July 14, 2006, the Department sent a second letter to Brian at his
21 business address of record, return receipt requested (7006 0100 0005 3245 4991),
22 notifying him that he had fifteen (15) days to submit a full set of fingerprints to the
23 Department.

24 6. The return receipt for the second letter was signed by David Stafford at
25 Respondent's business/ mailing address of record on July 21, 2006.

26 7. To date, Brian has not submitted a full set of fingerprints to the Department.

1 8. Brian's conduct as described above, constitutes the violation of the
2 requirement that an applicant submit a full set of fingerprints to the Department within the
3 meaning of A.R.S. § 20-285(F)(2).

4 9. Brian's conduct as described above constitutes providing incomplete
5 information in the license application in violation of A.R.S. § 20-295(A)(1).

6 10. Brian's conduct as described above constitutes the violation of any provision
7 of A.R.S. Title 20 or any rule, subpoena or order of the director within the meaning of
8 A.R.S. § 20-295(A)(2).

9 11. Grounds exist to suspend, revoke or refuse to renew Brian's insurance
10 license pursuant to A.R.S. §§ 20-295(A) and (F).

11 WHEREFORE, if after hearing, the Director finds one or more of the above-
12 described grounds alleged above, the Director may suspend or revoke Respondent's
13 insurance producer's license, and /or impose a civil penalty or order restitution, pursuant to
14 A.R.S. §§ 20-295(A), and (F).

15 Pursuant to A.R.S. § 20-150, the Director of Insurance delegates the authority
16 vested in the Director of Insurance of the State of Arizona, to the Director of the Office of
17 Administrative Hearings or her designee to preside over the hearing of this matter as the
18 Administrative Law Judge, to make written recommendations to the Director of Insurance
19 consisting of proposed findings of fact, proposed conclusions of law, and a proposed order.
20 This delegation does not include delegation of the authority of the Director of Insurance to
21 make the order on hearing or other final decision in this matter.

22 Pursuant to A.R.S. § 41-1092.01, your hearing will be conducted through the Office
23 of Administrative Hearings, an independent agency. Please find enclosed a copy of the

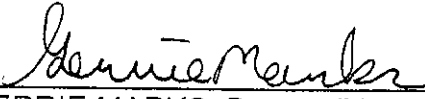
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1 procedures to be followed. Further hearing information may also be found at the Office of
2 Administrative Hearings website: www.azoah.com.

3 DATED this 31st day of October, 2006.

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5 
6 GERRIE MARKS, Deputy Director
Arizona Department of Insurance

7 COPY of the foregoing mailed this
8 31st day of October, 2006 to:

9 Lewis Kowal, Administrative Law Judge
10 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

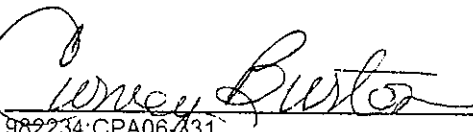
11 Mary Kosinski, Executive Assistant for Regulatory Affairs
12 Steve Fromholtz, Licensing Supervisor
Arizona Department of Insurance
13 2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

14 Jennifer A. Boucek
15 Assistant Attorney General
16 1275 West Washington Street
Phoenix, Arizona 85007-2926
17 Attorney for the Arizona Department of Insurance

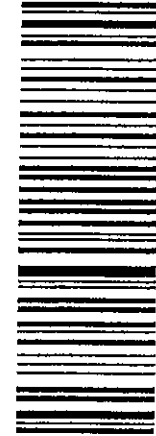
18 AND COPY MAILED SAME DATE by
19 Certified Mail, Return Receipt Requested, to:

20 Cory McKay Brian
c/o Allstate Financial Services
3011 S. Lindsay Rd., Suite 102
21 Gilbert, AZ 85296
Respondent

22 Cory McKay Brian
23 4037 E. Garnet Circle
Mesa, AZ 85206
24 Respondent

25 
26 982234:CPA06/31

7006 0810 0000 6397 3107



7006 0810 0000 6397 3114

