

SEP 28 2007

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STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

JACOB WELDON PENNELL

Respondent.

No. 07A-011-INS

ORDER

On September 21, 2007, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Lewis Kowal, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on September 25, 2007, 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 license, #860631, is revoked immediately.

NOTIFICATION OF RIGHTS

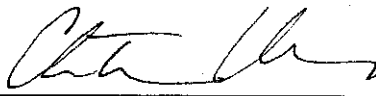
Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing with respect to this order by filing a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). 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 25th day of September, 2007.

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6 CHRISTINA URIAS, Director
7 Arizona Department of Insurance

8 COPY of the foregoing mailed this
9 28th day of September, 2007 to:

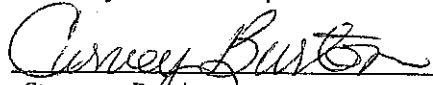
10 Jacob Weldon Pennell
11 c/o WM Financial Services
12 3418 N. 7th Ave.
13 Phoenix, AZ 85013
14 Respondent

15 Jacob Weldon Pennell
16 42708 N. Livingstone Way
17 Anthem, AZ 85086
18 Respondent

19 Mary E. Kosinski, Exec. Assistant for Regulatory Affairs
20 Mary Butterfield, Assistant Director
21 Catherine M. O'Neil, Consumer Legal Affairs Officer
22 Steven Fromholtz, Licensing Supervisor
23 Department of Insurance
24 2910 North 44th Street, Suite 210
25 Phoenix, Arizona 85018

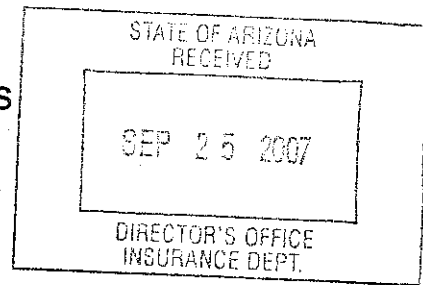
26 Lewis D. Kowal, Administrative Law Judge
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

Kelly LaPrade
Office of the Arizona Attorney General
Consumer Protection & Advocacy Section
1275 West Washington
Phoenix, AZ 85007
Attorney for the Department


Curvey Burton

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS



In the Matter of:

No. 07A-011-INS

JACOB WELDON PENNELL,

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: September 6, 2007

APPEARANCES: Assistant Attorney General Kelly LaPrade for the Arizona Department of Insurance; Jacob Weldon Pennell did not appear at the hearing.

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

FINDINGS OF FACT

1. At all times material to this matter, Jacob Weldon Pennell ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department") as a life, health and variable producer.
2. On March 13, 2006, the Department issued Respondent a life, health and variable producer license, license number 860631 ("License"), which expires on March 31, 2010.
3. On July 7, 2006, the Department issued a letter to Respondent that was mailed to his address of record, informing him that his fingerprint card could not be processed and was returned by the Federal Bureau of Investigation as illegible. In that letter, the Department requested that Respondent submit a replacement set of fingerprints and enclosed a blank replacement fingerprint form. The Department provided a deadline of August 11, 2006 for the return of the completed replacement fingerprint form.
4. Because the Department did not receive the requested replacement fingerprint form from Respondent as requested, the Department sent another letter to Respondent on September 5, 2006, certified mail, return receipt requested, giving Respondent a deadline of fifteen days from the date of the letter to file a replacement fingerprint form with the Department.

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1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 5. The Department submitted as an exhibit a copy of a receipt card and the
2 envelope containing the September 5, 2006 letter that showed the letter was returned
3 to the Department as unclaimed. See Exhibit 5.

4 6. Steven Fromholtz ("Mr. Fromholtz"), Producer Licensing Administrator for the
5 Department, testified that, to date, the Department has not received any communication
6 from Respondent in response to the above-mentioned letters and the Department has
7 not received a replacement fingerprint form from Respondent.

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

11 8. Mr. Fromholtz also testified that when an application for a producer's license is
12 received, the fingerprint card that accompanies the license application is forwarded to
13 the Arizona Department of Public Safety for processing, which includes processing by
14 the Federal Bureau of Investigation for criminal history background checks to be
15 conducted.

16 9. Respondent did not present any evidence to refute or rebut the evidence that the
17 Department presented.

18 CONCLUSIONS OF LAW

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

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

25 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-
26 295(A)(1), by having failed to provide complete information in the license application.

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

29 5. Grounds exist for the Director of the Department to suspend, revoke, or refuse to
30 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, September 21, 2007.
6

7
8 

9 _____
10 Lewis D. Kowal
11 Administrative Law Judge

12 Original transmitted by mail this
13 24 day of September, 2007, to:

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

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21 By  _____
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