STATE OF ARIZONA FILED

APR 2.9 2008

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In the Matter of:

KATHLEEN ANN BRANCHIK

(License number 894347),

STATE OF ARIZONA DEPARTMENT OF INSURANCE DEPT OF INSURANCE

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No. 08A-041-INS

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Respondent.

On March 27, 2008, 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 Kathleen Ann Branchik ("Branchik" or "Respondent") 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, Respondent has failed to file an answer. On April 17, 2008, counsel for the Department filed a Request for Default and Proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has 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 2 suspend, revoke or refuse to renew Respondent's license to transact insurance in Arizona, 3 pursuant to A.R.S. §20-295(A). 4 5 **ORDER** 6 IT IS ORDERED: 7 1. The insurance license held by Respondent is revoked effective upon the 8 issuance of this Order. 9 2. The hearing set for May 7, 2008 at 9:00 a.m. is vacated. 10 DATED this 25th day of 11 12 CHRISTINA URIAS, Director 13 Arizona Department of Insurance COPY of the foregoing mailed this 14 29th day of April, 2008 to: 15 Lewis Kowal, Administrative Law Judge 16 Office of Administrative Hearings 1400 West Washington, Suite 101 17 Phoenix, Arizona 85007 18 Steven Fromholtz, Licensing Supervisor Mary Butterfield, Assistant Director 19 Catherine O'Neil, Legal Affairs Mary Kosinski, Executive Assistant for Regulatory Affairs 20 Arizona Department of Insurance 2910 North 44th Street, Suite 210 21 Phoenix, Arizona 85018

Curvey Buston

Respondent

Kathleen Ann Branchik 3761 W. Placita Fantasia

Tucson, Arizona 85745

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STATE OF ARIZONA FILED

### STATE OF ARIZONA

MAR 27 2008

DEPARTMENT OF INSURANC
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	DEPARTMENT OF INSURANCE DEPT OF INSURAN BY
In the Matter of:	)
KATHLEEN ANN BRANCHIK	) Docket No. 08A-041-INS
(License number 894347)	) NOTICE OF HEARING
Respondent	) (Administrative Law Judge ) Lewis Kowal)
	<b>)</b>

PLEASE TAKE NOTICE that 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 May 7, 2008, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona 850071.

If you wish to continue this hearing to another date, you must file a motion in writing with the Office of Administrative Hearings not less than 15 days before the scheduled hearing date. Please send it to the attention of the Administrative Law Judge ("ALJ") and include the docket number listed above. You must also mail or hand-deliver a copy of any motion to continue to the Department of Insurance on the same date you file it with the Office of Administrative Hearings.

You are not required to have an attorney represent you. However, if you are represented, your attorney must be licensed to practice law in the State of Arizona. An insurance company may be represented by a corporate officer. A.R.S. § 20-161(B).

You are entitled to be present during the giving of all evidence and you will have a reasonable opportunity to inspect all documentary evidence, examine witnesses, present evidence that supports your case and to request that the ALJ issue suppoenas to compel the attendance of witnesses and production of evidence. A.R.S. §20-164(B).

As authorized under Arizona Revised Statutes ("A.R.S.") §§20-161 through and including 20-165 and Title 41, Chapter 6, Article 10 (A.R.S. § 41-1092 et seq.).

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A clear and accurate record of the proceedings will be made either by a court reporter or by electronic means. A.R.S. §41-1092.07(E). If you want a copy of an electronic recording, you must contact the Office of Administrative Hearings at (602) 542-9826. If the hearing was transcribed by a court reporter and you want a copy of the transcript, you must pay the cost of the transcript to the court reporter or other transcriber

If you have questions concerning this Notice of Hearing please direct them to Mary Kosinski, Arizona Department of Insurance, (602) 364-3471, 2910 North 44<sup>th</sup> Street, Suite 210, Phoenix, Arizona 85018.

## **NOTICE OF APPLICABLE RULES**

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

YOU MUST FILE A WRITTEN RESPONSE (ANSWER) TO THE ALLEGATIONS IN THIS NOTICE WITH US WITHIN 20 DAYS AFTER WE ISSUE THIS NOTICE. A.A.C. R20-6-106. YOUR RESPONSE SHOULD STATE YOUR POSITION OR DEFENSE AND SHOULD SPECIFICALLY ADMIT OR DENY EACH ASSERTION IN THE NOTICE. IF YOU DO NOT SPECIFICALLY DENY AN ASSERTION, WE WILL CONSIDER IT ADMITTED. ANY DEFENSE YOU DO NOT RAISE WILL BE CONSIDERED WAIVED.

IF YOU DO NOT FILE YOUR RESPONSE ON TIME, WE WILL CONSIDER YOU IN DEFAULT AND THE DIRECTOR MAY DEEM THE ALLEGATIONS IN THE NOTICE AS TRUE. ACCORDINGLY, WE WILL TAKE WHATEVER ACTION IS APPROPRIATE INCLUDING SUSPENSION, REVOCATION, IMPOSITION OF A CIVIL PENALTY AND ORDERING RESTITUTION TO ANY INJURED PERSON.

# **PERSONS WITH DISABILITIES**

PERSONS WITH DISABILITIES MAY REQUEST REASONABLE

ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR

ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR ACCOMMODATIONS

SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME TO ARRANGE THE

ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS, PLEASE CONTACT THE

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5. On December 20, 2007, the Department sent a second letter to Respondent at

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The allegations supporting this Notice of Hearing are as follows:

OFFICE OF ADMINISTRATIVE HEARINGS AT (602) 542-9826.

- Kathleen Ann Branchik ("Respondent") is, and was at all material times licensed as a resident accident/health and life producer, Arizona license number 894347 which expires November 30, 2010.
- 2. Respondent's mailing, business and residence addresses of record with the Department are: 4646 East Second Street, Tucson, Arizona 85711 (business); 3761 West Placita Fantasia, Tucson, Arizona 85745 (residence).
- 3. On or about June 19, 2007, the Department issued to Respondent an insurance license as a resident accident/health and life producer, Arizona license number 894347.

On September 28, 2007, the Department notified Respondent by mail at her

- business address of record that her fingerprint card had been processed and returned by the Federal Bureau of Investigation ("FBI") as illegible. The Department requested a replacement set of fingerprints along with a completed "Illegible Fingerprint Replacement Form" on or before November 2, 2007.
- her business address of record, return receipt requested, notifying her that she had fifteen (15) days to submit a full set of fingerprints to the Department. The Department also sent a copy of the letter to Respondent's residence address of record.
- 6. On or about January 7, 2008, the Post Office returned the December 20, 2007 letter to Respondent's business address of record to the Department marked "Unknown at this Address."
- 7. To date, Respondent has not submitted a full set of fingerprints to the Department.

### **VIOLATIONS**

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

- 9. Respondent's conduct as described above constitutes providing incomplete information in the license application within the meaning of A.R.S. § 20-295(A)(1).
- 10. Respondent's conduct as described above constitutes the violation of any provision of A.R.S. Title 20 or any rule, subpoena or order of the director within the meaning of A.R.S.§20-295(A)(2).
- 11. Grounds exist for the Director to suspend, revoke, or refuse to renew Respondent's insurance license, impose a civil penalty and/or order restitution pursuant to A.R.S. §§20-295(A) and (F).

WHEREFORE, if after hearing, the Director finds the grounds alleged above, the Director may deny, suspend, or revoke Respondent's insurance producer's license. A.R.S. § 20-295 (A).

The Director delegates the authority vested in her to the Director of the Office of Administrative Hearings or his designee to preside over the hearing of this matter as the Administrative Law Judge, to make written recommendations to the Director consisting of proposed findings of fact, proposed conclusions of law, and a proposed order. This delegation does not include delegation of the authority of the Director to make an order on the hearing or any other final decision in this matter. A.R.S. § 20-150.

The Office of Administrative Hearings is an independent agency. A.R.S §41-1092.01. Please find enclosed a copy of the procedures to be followed. Further hearing information may also be found at the Office of Administrative Hearings website: <a href="www.azaoh.com">www.azaoh.com</a>.

DATED this 24th day of March, 2008.

GERRIE MARKS, Deputy Director Arizona Department of Insurance

COPIES of the foregoing mailed/delivered, return receipt requested, this 27thday of March . 2008, to:

Kathleen Ann Branchik 4646 E. Second Street

Tucson, Arizona 85711 1 Respondent 2 Kathleen Ann Branchik 3761 W. Placita Fantasia 3 Tucson, Arizona 85745 Respondent COPIES of the foregoing mailed/delivered

this 27th day of March, 2008, to: Mary E. Kosinski, Exec. Assistant for Regulatory Affairs Mary Butterfield, Assistant Director Catherine M. O'Neil, Consumer Legal Affairs Officer Steven Fromholtz, Licensing Supervisor

Department of Insurance 2910 North 44<sup>th</sup> Street, Suite 210 Phoenix, Arizona 85018

Lewis Kowal Administrative Law Judge Office of Administrative Hearings 1400 West Washington, Suite 101 Phoenix, Arizona 885007







