

OCT 7 2008

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY MS

In the Matter of:

SHAUNTAL LAMAR GRIFFEN,

Respondent.

No. 08A-087-INS

ORDER

On October 2, 2008, 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 October 6, 2008, 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 Travel Accident Ticket and Baggage insurance producer's license is revoked immediately.

NOTIFICATION OF RIGHTS

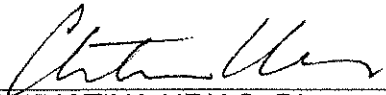
Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filing a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to Superior Court.

Petitioner 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 6th day of October, 2008.

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5 
6 CHRISTINA URIAS, Director
7 Arizona Department of Insurance

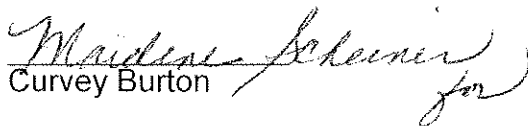
8 COPY of the foregoing mailed this
9 7th day of October, 2008 to:

10 Mary Kosinski, Executive Assistant for Regulatory Affairs
11 Catherine O'Neil, Consumer Legal Affairs Officer
12 Steven Fromholtz, Licensing Director
13 Arizona Department of Insurance
14 2910 North 44th Street, Suite 210
15 Phoenix, Arizona 85018

16 Kelly LaPrade
17 Assistant Attorney General
18 1275 West Washington Street
19 Phoenix, Arizona 85007-2926

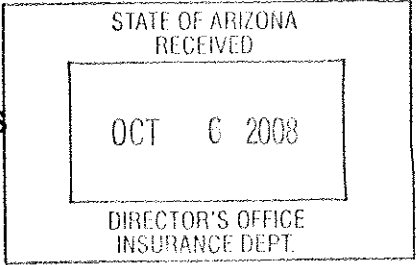
20 Shauntal Lamar Griffen
21 8222 N. 19th Ave.
22 Phoenix, Arizona 85051
23 Petitioner

24 Office of Administrative Hearings
25 1400 West Washington, Suite 101
26 Phoenix, Arizona 85007

27 
28 Curvey Burton

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS



In the Matter of:
SHAUNTAL LAMAR GRIFFEN,
Respondent.

No. 08A-087-INS
ADMINISTRATIVE
LAW JUDGE DECISION

HEARING: September 16, 2008

APPEARANCES: Assistant Attorney General Kelly La Prade for the Arizona Department of Insurance; Shauntal Lamar Griffen did not appear at the hearing.

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

FINDINGS OF FACT

1. On March 6, 2007, Shauntal Lamar Griffen ("Respondent") submitted to the Arizona Department of Insurance ("Department") an application for a Travel Producer's License ("Application").

2. In the Application, Respondent listed his business address and mailing address as International Cruise & Excursion Gallery, Inc. 10030 N. 25th Avenue, Phoenix, Arizona 85021. Respondent listed his residential address on the Application as 822 N. 19th Avenue, Phoenix, Arizona 85051.

3. Respondent answered "No" to the Question A in Section VII of the Application, which asked: "Have you EVER been convicted of a felony?"

4. Section VII of the Application provides:

ADDITIONAL INFORMATION Carefully read and respond to each of the following questions. You should provide a "YES" answer even if you believe an incident has been cleared from your record. Willful misrepresentation of any fact required to be disclosed in any application or accompanying statement is a violation of law and a ground to deny your application.

For the purposes of this application "convicted" includes, but is not limited to, having been found guilty by judge or jury or pled guilty or no contest to any felony charge. A "No" response is incorrect if an applicant has had any conviction dismissed,

1 expunged, pardoned, appealed, set aside or reversed, or had
2 its civil rights restored, had a plea withdrawn or has been given
3 probation, a suspended sentence or a fine, or successfully
4 completed a diversion program, All applicants must complete
5 this whole section.

6 5. Respondent was issued a Travel Producer's license number 886895 on March
7 13, 2007 that is due to expire on September 30, 2010.

8 6. Steve Ferguson ("Mr. Ferguson") Producer Licensing Administrator for the
9 Department testified:

10 a. Respondent's fingerprint cards that were submitted with the Application
11 were sent to the Arizona Department of Public Safety for it to conduct a state
12 criminal history background check. The Department of Public Safety also sent
13 the fingerprint cards to the Federal Bureau of Investigation for it to conduct a
14 federal criminal history background check.

15 b. The Department of Public Safety notified the Department of the results of
16 the state and federal criminal history background checks of Respondent. The
17 Criminal history background checks revealed that Respondent had been
18 convicted in Maricopa County of a class 6 undesignated felony on November 27,
19 2002.

20 c. With the results of the criminal history background of Respondent, Mr.
21 Ferguson requested that the Investigations Division of the Fraud Unit of the
22 Department search the records of the Maricopa County Superior Court and
23 obtain court documents relating to Respondent's conviction.

24 d. A search was conducted by the Department's Fraud Unit, resulting in
25 certain court documents (Exhibit 6) showing that on November 27, 2002,
26 Respondent had been convicted in the Superior Court of Maricopa County, Case
27 Number CR2002-012394, of Unlawful Use of Means of Transportation, a class 6
28 undesignated felony. The activity underlying the conviction was Respondent was
29 observed by law enforcement driving a stolen motor vehicle. Respondent, at first,
30 denied having stolen the car and also knowing the vehicle was stolen. However,
Respondent eventually admitted that he knew the vehicle was stolen by a friend
of his who gave him the car.

1 7. The Plea Agreement in the Superior Court of Maricopa County Case Number
2 CR2002-012394 provided that Respondent's conviction of Unlawful Use of Means of
3 Transportation, an undesignated class 6 felony, is a nondangerous, nonrepetitive
4 offense under the criminal code. The Plea Agreement further provides that "The offense
5 shall not be designated a misdemeanor until successful completion of probation."
6 Respondent was placed on three years probation.

7 8. Mr. Ferguson testified that the Department was not aware whether Respondent's
8 probation in the above-mentioned case had been successfully completed nor is the
9 Department aware of any filing made by Respondent to have the class 6 undesignated
10 offense be designated as a misdemeanor or that Respondent has had his civil rights
11 restored.

12 9. On September 17, 2007, the Department sent a letter certified mail, return
13 receipt requested to Respondent's business and mailing address of record on file with
14 the Department. The Department received the certified mail return receipt card
15 showing that the letter had been signed for by a person at Respondent's business and
16 mailing address.

17 10. On September 19, 2007, the Department received a letter form International
18 Cruise & Excursions stating that Respondent was no longer employed there and
19 suggested the Department forward the letter to Respondent's residential address.

20 11. On September 19, 2007, the Department sent a letter certified mail return receipt
21 requested to Respondent's residential address of record on file with the Department,
22 which was returned by the United States Postal Service with the envelope marked
23 undeliverable.

24 12. Mr. Ferguson testified that the above-mentioned letters were sent to Respondent
25 in an attempt to obtain information from Respondent regarding the felony conviction.

26 13. Mr. Ferguson testified that the Department did not have any record of any
27 change of business, mailing or residential address for Respondent.

28 14. The Notice of Hearing issued in this matter was sent certified mail, return receipt
29 requested, to Respondent's residential address and was returned as undeliverable. To
30 date, the Department does not have any change of address for Respondent with
respect to his business, mailing and residential addresses.

15. Respondent did not present any evidence to refute or rebut the evidence presented by the Department.

CONCLUSIONS OF LAW

1. This hearing is a disciplinary proceeding and the burden of proof is on the Department to establish by a preponderance of the evidence violations of the State's insurance laws. See A.R.S. § 41-1092.07(G)(2) and A.A.C. R2-19-119.

2. A preponderance of the evidence is "evidence of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary, 1182 (6th ed. 1990).

3. The weight of the evidence of record established Respondent provided incorrect, misleading, and materially untrue information in the Application, in violation of A.R.S. § 20-295(A)(1).

4. The weight of the evidence of record established that Respondent has been convicted of a felony within the meaning of A.R.S. § 20-295(A)(6).

5. The weight of the evidence of record established that Respondent failed to notify the Department in writing of a change of his residential and business addresses as required by A.R.S. § 20-286(C)(1).


6. Respondent's conduct, as determined above, constitutes a violation of any provision of A.R.S. Title 20, within the meaning of A.R.S. § 20-295(A)(2).

7. Grounds exist for the Director of the Department to suspend, revoke, or refuse to renew Respondent's insurance license, and/or impose a civil penalty pursuant to A.R.S. §§ 20-295(A) and (F).

ORDER

Based on the above, on the effective date of the Order entered in this matter, Respondent's Travel Producer's license number 886895 shall be revoked.

Done this day, October 2, 2008.



Lewis D. Kowal
Administrative Law Judge

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Original transmitted by mail this
3 day of October, 2008, to:

Department of Insurance
Christina Urias, Director
2910 North 44th Street, Ste. 210
Phoenix, AZ 85018

By Christina Urias