

DEC 1 2008

DEPT OF INSURANCE
BY ms

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

NICOLE DANIELLE FETTER,

Respondent.

No. 08A-140-INS

ORDER

On November 18, 2008, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Lewis D. Kowal, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on November 20, 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 Director adopts the Recommended Findings of Fact and Conclusions of Law of the Recommended Decision.
2. The Director revokes Respondent's Arizona producer's license, effective 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 filling 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 November, 2008.

4
5 
6 CHRISTINA URIAS, Director
7 Arizona Department of Insurance

8 COPY of the foregoing mailed this
9 1st day of December, 2008 to:

10 Office of Administrative Hearings
11 1400 West Washington, Suite 101
12 Phoenix, Arizona 85007

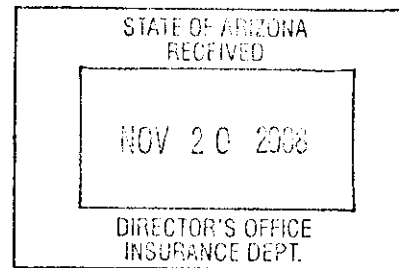
13 Mary Butterfield, Assistant Director
14 Catherine O'Neil, Consumer Legal Affairs Officer
15 Steve Ferguson, Assistant Director
16 Kelly Stephens, Compliance Section Manager
17 Arizona Department of Insurance
18 2910 North 44th Street, Suite 210
19 Phoenix, Arizona 85018

20 Nicole Danielle Fetter
21 5150 N. 99th Ave., #3098
22 Glendale, Arizona 85305
23 Respondent

24 
25 Curvey Burton
26 

1
2
3
4
5
6
7
8

IN THE OFFICE OF ADMINISTRATIVE HEARINGS



In the Matter of:

No. 08A-140-INS

Nicole Danielle Fetter
(License Number 908315) ,

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

9
10
11
12
13
14

HEARING: November 4, 2008

APPEARANCES: Mary Kosinski, Special Assistant Attorney General for the
Arizona Department of Insurance Nicole Danielle Fetter did not appear at the hearing.

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

FINDINGS OF FACT

1. At all times material to this matter, Nicole Danielle Fetter ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department") as a life and accident/health producer.

2. On December 12, 2007, the Department issued Respondent an accident/health and life producer license, license number 908315 ("License"), which expires on October 31, 2011.

3. Steven Fromholtz ("Mr. Fromholtz"), Producer Licensing Administrator of the Licensing Section of the Department, testified that when an application for a producer's license is received and processed, it is forwarded to the Arizona Department of Public Safety ("DPS") for processing, which includes processing by the Federal Bureau of Investigation for a criminal history background check to be conducted.

4. On February 6, 2008, the Department issued a letter to Respondent that was mailed to her address of record, informing her that her fingerprint card could not be processed and was returned by DPS as illegible. In that letter, the Department requested that Respondent submit a replacement set of fingerprints and enclosed a blank Illegible Replacement Fingerprint Form. The Department provided a deadline of

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

1 April 1, 2008 for the return of the completed replacement fingerprint form.

2 5. Because the Department did not receive the requested replacement fingerprint
3 form from Respondent as requested, the Department sent another letter to Respondent
4 on June 26, 2008, giving Respondent a deadline of July 28, 2008 to file an Illegible
5 Replacement Fingerprint Form with the Department or a Voluntary Surrender of License
6 Form with the Department. The Department indicated that the failure to respond to the
7 letter would result in the initiation of disciplinary action being taken against
8 Respondent's license.

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

12 7. Mr. Fromholtz testified that to date, the Respondent has not responded to the
13 above-mentioned letters and has not submitted to the Department a new set of
14 fingerprints.

15 CONCLUSIONS OF LAW

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

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

22 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-
23 295(A)(1), by having failed to provide complete information in the license application.

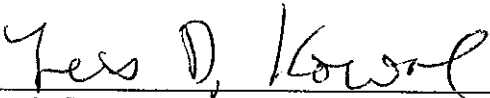
24 4. Respondent's conduct, as set forth above, constitutes the violation of any
25 provision of A.R.S., Title 20, within the meaning of A.R.S. § 20-295(A)(2).

26 5. Grounds exist for the Director of the Department to suspend, revoke, or refuse to
27 renew the License pursuant to A.R.S. § 20-295(A).

1
2 ORDER

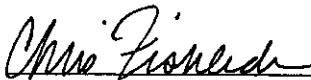
3 Based upon the above, the License shall be revoked on the effective date of the
4 Order entered in this matter.

5 Done this day, November 18, 2008.
6

7
8 
9 _____
10 Lewis D. Kowal
11 Administrative Law Judge

12 Original transmitted by mail this
13 19 day of November, 2008, to:

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

20
21 By  _____
22
23
24
25
26
27
28
29
30