

JUN 16 2009

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY CB

In the Matter of: )  
 )  
 LORRAINE CARA GARDEA, )  
 )  
 Respondent. )  
 )  
 )

Docket No. 09A-037-INS  
  
PROCEDURAL ORDER

On June 16, 2009, the Arizona Department of Insurance ("Department") issued an Order with the following caption containing an incorrect docket number: In the Matter of: Lorraine Cara Gardea, Respondent, Docket No. 09A-137-INS ("June 16, 2009 Order"). (Attached and incorporated herein.) The correct docket number should be 09A-037-INS.

THEREFORE, IT IS ORDERED:

Amending the docket number of the June 16, 2009 Order to the correct docket number: 09A-037-INS.

DATED this 16<sup>th</sup> day of June, 2009.

Gerrie Marks  
GERRIE MARKS  
Deputy Director

COPY of the foregoing mailed this 16th day of June, 2009 to:

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

Mary Kosinski, Exec. Asst. for Regulatory Affairs  
Mary Butterfield, Assistant Director  
Catherine O'Neil, Consumer Legal Affairs Officer  
Steven Fromholtz, Licensing Administrator

1 Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018

3 Lorraine Cara Gardea  
c/o Humana Insurance Company  
10400 North 25<sup>th</sup> Ave.  
Phoenix, Arizona 85021  
Respondent

5 Lorraine Cara Gardea  
4350 N. 5<sup>th</sup> Ave., Unit #204  
Phoenix, Arizona 85013  
Respondent

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Curvey Walters Burton

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JUN 16 2009

DEPT OF INSURANCE  
BY 

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

**LORRAINE CARA GARDEA,**  
Respondent.

**No. 09A-137-INS**  
**ORDER**

On June 5, 2009, the Office of Administrative Hearings, through Administrative Law Judge ("ALJ") Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on June 10, 2009, 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.

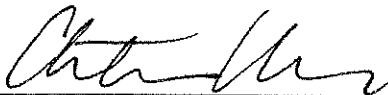
NOTIFICATION OF RIGHTS

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 11<sup>th</sup> day of June, 2009.

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5   
6 CHRISTINA URIAS, Director  
Arizona Department of Insurance

7  
8 COPY of the foregoing mailed this  
9 16th day of June, 2009 to:

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

11 Mary Kosinski, Exec. Asst. for Regulatory Affairs  
12 Mary Butterfield, Assistant Director  
13 Catherine O'Neil, Consumer Legal Affairs Officer  
Steven Fromholtz, Licensing Administrator  
Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018

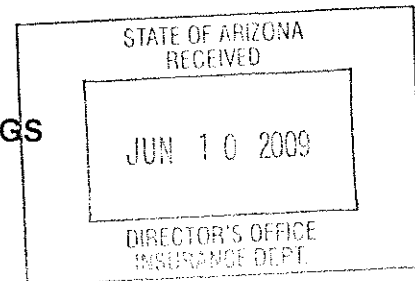
15 Lorraine Cara Gardea  
16 c/o Humana Insurance Company  
10400 North 25<sup>th</sup> Ave.  
Phoenix, Arizona 85021  
17 Respondent

18 Lorraine Cara Gardea  
4350 N. 5<sup>th</sup> Ave., Unit #204  
19 Phoenix, Arizona 85013  
20 Respondent

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23 Curvey Burton

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS



In the Matter of:

Lorraine Cara Gardea  
(License Number 924420),

Respondent.

No. 09A-037-INS

ADMINISTRATIVE LAW JUDGE

DECISION

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**HEARING:** June 2, 2009

**APPEARANCES:** No one appeared for Respondent; Special Assistant Attorney General Mary E. Kosinski for the Department of Insurance

**ADMINISTRATIVE LAW JUDGE:** Thomas Shedden

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**FINDINGS OF FACT**

1. On March 31, 2009, Department of Insurance issued a Notice of Hearing setting the above-captioned matter for 9:00 a.m. June 2, 2009.
2. Respondent, Lorraine Cara Gardea, did not appear at the scheduled time and the matter was convened in her absence at about 9:15 a.m.
3. The Department presented the testimony of Mr. Steven Fromholtz, the Department's Producer Licensing Administrator.
4. On July 28, 2008, the Department issued to Respondent an accident/health producer and life producer license (number 924420) that expires on February 29, 2012.
5. When the Department receives a complete license application, the applicant is issued a license, but the Department then conducts a background check on the applicant.
6. As part of the background check, the applicant's fingerprints are forwarded to the Arizona Department of Public Safety ("DPS"), which conducts a criminal history background check of the applicant that includes forwarding the applicant's fingerprints to the Federal Bureau of Investigation.

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

1 7. As part of her application, Respondent submitted her fingerprints to the  
2 Department but DPS found that Respondent's fingerprints were not legible.

3  
4 8. On September 10, 2008, the Department mailed a letter to Respondent at her  
5 business address of record, informing her that her fingerprint card could not be  
6 processed because the fingerprints were not legible. The Department informed  
7 Respondent that she must submit a replacement set of fingerprints and enclosed a  
8 blank "Illegible Replacement Fingerprint Form" for Respondent to use for that purpose.  
9 The Department provided a deadline of October 16, 2008, for Respondent to submit the  
10 Replacement Fingerprint Form.

11 9. The Department did not receive from Respondent the Replacement Fingerprint  
12 Form. Consequently, in a letter dated December 23, 2008, the Department informed  
13 Respondent that by January 14, 2009, she must either submit a replacement set of  
14 fingerprints or surrender her license, and that failure to do so would result in the  
15 Department initiating an administrative action against Respondent.

16 10. The Department mailed the letter dated December 23, 2008, to Respondent's  
17 home address of record, rather than her business address, to increase the likelihood  
18 that Respondent would receive notice that her fingerprints had been found to be  
19 illegible.

20 11. The letter dated December 23, 2008, was returned to the Department with a  
21 notation that the letter was undeliverable and that it was unable to be forwarded.

22 12. Licensees are required to inform the Department of any change of address  
23 within 30 days of such a change.

24 13. Mr. Fromholtz testified that as of the hearing date, the Respondent has not  
25 responded to the above-mentioned letters and has not submitted to the Department a  
26 new set of fingerprints.

### 27 CONCLUSIONS OF LAW

28 1. The Department bears the burden of persuasion. See A.R.S. § 41-  
29 1092.07(G)(2).

30 2. The standard of proof on all issues is that of the preponderance of the evidence.  
See A.AC. R2-19-119.

1 3. A preponderance of the evidence is "[e]vidence which is of greater weight or more  
2 convincing than the evidence which is offered in opposition to it; that is, evidence which  
3 as a whole shows that the fact sought to be proved is more probable than not." BLACK'S  
4 LAW DICTIONARY 1182 (6<sup>th</sup> ed. 1990).

5 4. Respondent was required to submit to the Department a full set of fingerprints  
6 as part of her application, but because Respondent submitted fingerprints that were not  
7 legible, she did not satisfy that requirement. See A.R.S. § 20-285(F)(2).

8 5. Because Respondent did not submit a complete set of fingerprints, she failed to  
9 provide complete information with her license application, in violation of A.R.S. § 20-  
10 295(A)(1).


11 6. Because Respondent has violated provisions of Title 20, she has also violated  
12 A.R.S. § 20-295(A)(2).

13 7. Grounds exist for the Director of the Department to revoke Lorraine Cara  
14 Gardea's license number 924420. See A.R.S. § 20-295(A).

15 **ORDER**


16 **IT IS ORDERED** that Lorraine Cara Gardea's license number 924420 is revoked  
17 on the effective date of the Order entered in this matter.

18 Done this day, June 5, 2009

19   
20 \_\_\_\_\_  
21 Thomas Shedden  
22 Administrative Law Judge

23 Original transmitted by mail this  
24 9 day of June, 2009, to:

25 Christina Urias, Director  
26 Department of Insurance  
27 2910 North 44th Street, Ste. 210  
28 Phoenix, AZ 85018

29 By   
30 \_\_\_\_\_