


MAY 24 2010

DEPT OF INSURANCE
BY 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

MOFFITT, JOANN,
(Arizona License No. 876006)
(National Producer No. 2082932)

Respondent.

No. 09A-094-INS
ORDER

On May 19, 2010, 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 May 19, 2010, 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.
2. The Director revokes Respondent's Arizona License No. 876006, effective immediately.

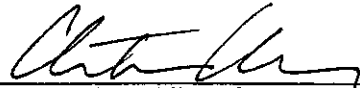
NOTIFICATION OF RIGHTS

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 24th day of May, 2010.

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

8 COPY of the foregoing mailed this
9 24th day of May, 2010 to:

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

17 Liane Kido
18 Assistant Attorney General
19 1275 West Washington Street
20 Phoenix, Arizona 85007-2926

21 Joann Moffitt
22 8512 Hwy F 48 West
23 Colfax, Iowa 50054
24 Petitioner

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

27 
28 Curvey Burton

MAY 19 2010

DIRECTOR'S OFFICE
INSURANCE DEPT.

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 09A-094-INS

JOANN MOFFITT,
(Arizona License No. 876006)
(National Producer No. 2082932)

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: April 30, 2010

APPEARANCES: Assistant Attorney General Liane Kido appeared for the Arizona Department of Insurance; Joann Moffitt did not appear at the hearing.

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

FINDINGS OF FACT

1. On February 19, 2010, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting this matter for hearing at 1:00 p.m. on April 30, 2010.
2. The Department presented the testimony of Steven Fromholtz ("Mr. Fromholtz"), the Department's Producer Licensing Administrator, and had exhibits entered into evidence.
3. Joann Moffitt ("Ms. Moffitt") holds a Casualty, Accident/Health, Life, and Property Producer License No. 876006 ("License"), which expired on March 31, 2010.
4. On September 19, 2008, the Kansas Department of Insurance issued a Final Order *In the Matter of the Kansas Resident License Insurance Agent's License of Joann M. Moffitt*, NPN #2082932, Docket No. 3861-SO, wherein Ms. Moffitt's Kansas resident insurance agent's license was revoked. Additionally, Ms. Moffitt was ordered to cease and desist from the sale, solicitation or negotiation of insurance and/or receiving compensation from sale, solicitation or negotiation of insurance.

1 5. On February 5, 2009, the Iowa Insurance Commissioner entered an Order and
2 Consent to Order *In the Matter of Joann Moffitt*, National Producer No. 2082932,
3 Division Docket No. 5092 ("Iowa Order"). In the Iowa Order, the Iowa Commissioner
4 found that Ms. Moffitt used fraudulent, coercive, or dishonest practices in the course of
5 conducting business. The Order permanently revoked Ms. Moffitt's Iowa insurance
6 producer license and Ms. Moffitt was barred from reapplying for an Iowa insurance
7 producer license or a Securities Agent License in the State of Iowa.

8 6. On March 4, 2009, the Iowa Department of Inspection and Appeals, Division of
9 Administrative Hearings, entered an Order revoking Ms. Moffitt's insurance producer
10 license in accordance with the Iowa Order.

11 7. Mr. Fromholtz testified that the Department received information from the
12 National Association of Insurance Commissioners' Website, which contains information
13 from all jurisdictions within the United States of insurance producer licenses and their
14 status. The Department was notified of the disciplinary actions taken by the Kansas
15 Department of Insurance, the Iowa Department of Inspection and Appeals, Division of
16 Administrative Hearings, and the Iowa Insurance Division with respect to Ms. Moffitt.

17 8. Ms. Moffitt did not notify the Department of the administrative disciplinary
18 actions or their outcome.

19 9. Mr. Fromholtz testified that in order to maintain a non-resident insurance
20 producer license in the State of Arizona, the licensee must maintain in good standing a
21 resident insurance producer license in another state. In the instant matter, Ms. Moffitt
22 has failed to maintain her resident insurance producer license in good standing within
23 the State of Kansas and is not currently licensed as an insurance agent in the State of
24 Kansas. Additionally, as separate grounds for revocation, Mr. Fromholtz testified that
25 Ms. Moffitt has had her insurance producer licenses in the states of Kansas and Iowa
26 revoked and did not notify the Department of the revocation of the licenses.

27 10. Ms. Moffitt did not present any evidence to refute or rebut the evidence
28 presented by the Department.

CONCLUSIONS OF LAW

1
2 1. The Department bears the burden of persuasion to show that Ms. Moffitt's
3 accident/health producer and life producer license should be revoked. See A.R.S. § 41-
4 1092.07(G)(2).

5 2. The standard of proof is that of the preponderance of the evidence. See A.A.C.
6 R2-19-119.

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

11 4. The Department has met its burden of persuasion. Ms. Moffitt has had an
12 insurance producer license or its equivalent revoked in any state within the meaning of
13 A.R.S. § 20-295(A)(9).

14 5. Ms. Moffitt, by her conduct as set forth above, failed to fulfill the requirement for
15 a nonresident license that the person is currently licensed as a resident and in good
16 standing in the person's home state within the meaning of A.R.S. § 20-287(A)(1).

17 6. Ms. Moffitt, by her conduct as set forth above, failed to report to the Director of
18 the Department within thirty days any administrative action taken against her in another
19 jurisdiction in violation of A.R.S. § 20-301(A).

20 7. Ms. Moffitt, by her conduct as set forth above, used fraudulent, coercive or
21 dishonest practices, or demonstrated incompetence, untrustworthiness or financial
22 irresponsibility in violation of A.R.S. § 20-295(A)(8).

23 8. Ms. Moffitt, by her conduct as set forth above, violated the provisions of A.R.S.,
24 Title 20, within the meaning of A.R.S. § 20-295(A)(2).

25 9. Grounds exist for the Director of the Department to revoke Ms. Moffitt's
26 nonresident insurance producer license pursuant to A.R.S. §§ 20-295(A).

ORDER

1
2 Based on the above, the License shall be revoked on the effective date of the
3 Order entered in this matter.

4 Done this day, May 19, 2010.

5
6 /s/ Lewis D. Kowal
7 Administrative Law Judge
8

9 Transmitted electronically to:

10
11 Christina Urias, Director
12 Department of Insurance
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30