

NOV 4 2010

DEPT OF INSURANCE  
BY 

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

**SCOTT, JUSTIN BRETT,**  
**(Arizona License No. 920751)**  
**(NPN 10911312)**

**No. 10A-084-INS**

**ORDER**

Respondent.

On October 18, 2010, 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 October 18, 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 of the Recommended Decision.
2. The Director revokes Respondent's Arizona producer's license, effective immediately.

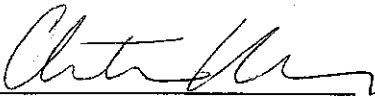
NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Respondent may request a rehearing with respect to this order by 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.

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 3<sup>rd</sup> day of November, 2010.

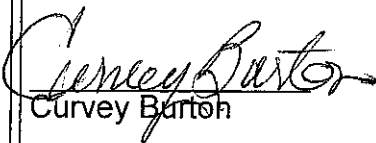
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5   
6 CHRISTINA URIAS, Director  
7 Arizona Department of Insurance

8 COPY of the foregoing mailed this  
9 4<sup>th</sup> day of November, 2010 to:

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

13 Mary Butterfield, Assistant Director  
14 Mary Kosinski, Exec. Asst. for Regulatory Affairs  
15 Catherine O'Neil, Consumer Legal Affairs Officer  
16 Steven Fromholtz, Licensing Administrator  
17 Arizona Department of Insurance  
18 2910 North 44th Street, Suite 210  
19 Phoenix, Arizona 85018

20 Justin Brett Scott  
21 P.O. Box 116  
22 Waurika, OK 73573  
23 Respondent

24   
25 Curvey Burton

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 10A-084-INS

Justin Brett Scott  
(Arizona License No. 920751)  
(NPN No. 10911312),

ADMINISTRATIVE  
LAW JUDGE DECISION

Respondent.

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**HEARING:** September 27, 2010

**APPEARANCES:** Special Assistant Attorney General Mary Kosinski on behalf  
of the Arizona Department of Insurance; Justin Brett Scott did not appear at the  
hearing.

**ADMINISTRATIVE LAW JUDGE:** Lewis D. Kowal

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**FINDINGS OF FACT**

1. At all times material to this matter, Justin Brett Scott ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department") as a life and accident/health, variable life and variable annuities producer.
2. On June 5, 2008, the Department issued Respondent, a life and accident/health, variable life and variable annuities producer license, license number 920751 ("License"), which expires on June 30, 2012.
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. This includes processing by the Federal Bureau of Investigation for a criminal history background check to be conducted.

1 4. The Department received a report back from DPS advising, in effect, that the  
2 fingerprints submitted were illegible and a criminal history background check could not  
3 be performed based upon the fingerprints.

4 5. On November 25, 2008, the Department issued a letter to Respondent that was  
5 mailed to his business/ mailing address, informing him that his fingerprint card could not  
6 be processed and was returned by DPS as illegible. In that letter, the Department  
7 requested that Respondent submit a replacement set of fingerprints and enclosed a  
8 blank Illegible Replacement Fingerprint Form. The Department provided a deadline of  
9 December 30, 2008, for the return of the completed replacement fingerprint form.

10 6. Because the Department did not receive the requested replacement fingerprint  
11 form from Respondent as requested, the Department sent another letter to Respondent  
12 on November 10, 2009, at Respondent's residential address, giving Respondent a  
13 deadline of November 30, 2009, to file an a new set of fingerprints and an Illegible  
14 Replacement Fingerprint Form with the Department or to submit a Voluntary Surrender  
15 of License Form with the Department. The Department indicated that the failure to  
16 respond to the letter would result in the initiation of disciplinary action being taken  
17 against Respondent's license.

18 7. Mr. Fromholtz testified that the Department has not received any change of  
19 address notification from Respondent and that the above-mentioned letters were sent  
20 to the addresses of record the Department had for Respondent.

21 8. Mr. Fromholtz testified that to date the Respondent has not responded to the  
22 above-mentioned letters and has not submitted to the Department a new set of  
23 fingerprints.

#### 24 CONCLUSIONS OF LAW

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

1 2. During the application process, the Director of the Department required  
2 Respondent to submit a full set of fingerprints, and Respondent's illegible fingerprint  
3 submission did not satisfy that requirement. See A.R.S. § 20-285(E)(2).<sup>1</sup>

4 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-  
5 295(A)(1) by having failed to provide complete information in the license application.

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

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

10 **ORDER**

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

13 Done this day, October 18, 2010.

14  
15 /s/ Lewis D. Kowal  
16 Administrative Law Judge

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18 Transmitted electronically to:

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20 Christina Urias, Director  
21 Department of Insurance

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29 <sup>1</sup> It is noted that the Notice of Hearing issued in this matter contained a typographical error and cited  
30 A.R.S. § 20-285(F)(2) instead of § 20-285(E)(2). During the hearing, the Department referenced A.R.S.  
§ 20-285(E)(2).