

APR 29 2011

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STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

In the Matter of:

**SIFUENTES, DAVID (JR),**  
**(Arizona License No. 953575)**  
**(NPN # 15084606)**

Respondent.

**No. 11A-007-INS**

**ORDER**

On April 28, 2011, 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 April 28, 2011, 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 28<sup>th</sup> day of April, 2011.

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

8 COPY of the foregoing mailed this  
9 29th day of April, 2011 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 David Sifuentes, Jr.  
21 101 N. Jessica Ave., Apt. 219  
22 Tucson, Arizona 85710  
23 Respondent

24 David Sifuentes, Jr.  
25 c/o Geico  
26 930 N. Finance Center Dr.  
Tucson, Arizona 85710  
Respondent

27   
28 Curvey Burton

APR 28 2011

DIRECTOR'S OFFICE  
INSURANCE DEPT.

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 11A-007-INS

Sifuentes, David (Jr.)  
( Arizona License No. 953575)  
(NPN No. 15084606)

ADMINISTRATIVE  
LAW JUDGE DECISION

Respondent.

**HEARING:** April 13, 2011

**APPEARANCES:** Special Assistant Attorney General Mary Kosinski on behalf of the Arizona Department of Insurance; David Sifuentes, Jr. did not appear at the hearing

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

**FINDINGS OF FACT**

1. At all times material to this matter, David Sifuentes, Jr. ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department").
2. On October 16, 2009, the Department issued Respondent a personal lines (property and casualty) producer license, license number 953575 ("License"), which expires on July 31, 2013.
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 23, 2010, the Department issued a letter to Respondent by mail, informing him that his 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 March 25, 2010, for the return of the completed replacement fingerprint form.

1 5. Because the Department did not receive the requested replacement fingerprint  
2 form from Respondent as requested, the Department sent another letter to Respondent  
3 on June 24, 2010, giving Respondent a deadline of July 15, 2010, to file with the  
4 Department an Illegible Replacement Fingerprint Form with a new set of fingerprints or  
5 file a Voluntary Surrender of License Form. The Department indicated that the failure  
6 to respond to the letter would result in the initiation of disciplinary action being taken  
7 against the License.

8 6. On August 26, 2010, the Department sent a letter to the Respondent that  
9 contained the same information and notification that was set forth in the above-  
10 mentioned June 24, 2010 letter.

11 7. Mr. Fromholtz testified that the Department has not received any change of  
12 address notification from Respondent and that the above-mentioned letters were sent  
13 to the mailing/business and/or residential addresses of record the Department had for  
14 Respondent.

15 8. Mr. Fromholtz testified that to date, Respondent has not responded to the  
16 above-mentioned letters and has not submitted to the Department a new set of  
17 fingerprints.

18 9. Respondent did not present any evidence to refute or rebut the evidence  
19 presented by the Department.

#### 20 CONCLUSIONS OF LAW

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

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

27 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-  
28 295(A)(1) by having failed to provide complete information in the license application.

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

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

3 **ORDER**

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

6 *In the event of certification of the Administrative Law Judge Decision by the*  
7 *Director of the Office of Administrative Hearings, the effective date of the Order will be 5*  
8 *days from the date of that certification.*

9 Done this day, April 28, 2011.

10  
11 /s/ Lewis D. Kowal  
12 Administrative Law Judge

13  
14 Transmitted electronically to:

15  
16 Christina Urias, Director  
17 Department of Insurance