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STATE OF ARIZONA



DEPARTMENT OF INSURANCE

In the Matter of:

FEUER, JESSE SAMUEL, (Arizona License No. 970153) (NPN # 15849462)

Respondent.

No. 11A-106-INS

ORDER

On December 20, 2011, 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 December 22, 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:

- 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 22 day of Secentre, 2011.
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5	CHRISTINA URIAS, Director
6	Arizona Department of Insurance
7	
8	COPY of the foregoing mailed this
9	Office of Administrative Hearings 1400 West Washington, Suite 101
11	Phoenix, Arizona 85007
12	Mary Butterfield, Assistant Director Mary Kosinski, Exec. Asst. for Regulatory Affairs Catherine O'Neil, Consumer Legal Affairs Officer Steven Fromholtz, Licensing Administrator Arizona Department of Insurance 2910 North 44th Street, Suite 210 Phoenix, Arizona 85018
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14	
15	Jesse Samuel Feuer
16	521 N. 3 rd Ave. Tucson, Arizona 85705
17	Respondent
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19	Curvey Burton
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ADMINISTRATIVE LAW JUDGE DECISION

Respondent.

(ARIZONA LICENSE NO. 970153)

JESSE SAMUEL FEUER,

(NPN NO. 15849462)

In the Matter of:

HEARING: December 6, 2011

APPEARANCES: No one appeared for Respondent; Special Assistant Attorney

General Mary E. Kosinski appeared for the Department of Insurance

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

- 1. On October 12, 2011, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 8:00 a.m. December 6, 2011.
- 2. No representative for Respondent Jesse Samuel Feuer appeared at the scheduled hearing time, and the hearing was convened in Respondent's absence at about 8:45 a.m.
- 3. The Department presented the testimony of Steven Fromholtz, the Department's Producer Licensing Administrator, and had 5 exhibits introduced into evidence.
- 4. Respondent submitted to the Department an application for a life producer's license, a property producer's license, an accident and health or sickness producer's license, and a casualty producer's license. With the application, the Respondent included a copy of his fingerprints.
- The Department granted Respondent License No. 970153, effective July 21,
 Respondent's license is scheduled to expire on April 30, 2014.

- 6. The Department forwarded Respondent's fingerprints the Arizona Department of Public Safety ("DPS") for a criminal records background check.
- 7. It typically takes DPS 4 to 8 weeks to conduct a criminal records background check. Consequently, rather than making all applicants for licensure wait for the results of the background check, the Department issues licenses while the background check is pending.
- 8. DPS informed the Department that Respondent's fingerprints were not of sufficient quality for use in conducting the background check.
- 9. In a letter dated November 10, 2010, the Department informed Respondent that on or before December 12, 2010, he was required to submit to the Department a replacement set of fingerprints. The November 10th letter was sent to Respondent's business address of record.
- 10. DPS does not charge a processing fee for reviewing replacement fingerprint cards.
- 11. In a letter dated January 13, 2011, the Department informed Respondent that it was preparing to initiate an administrative action against his license because he had not submitted a replacement set of fingerprints as required.
- 12. The January 13th letter informed Respondent that on or before January 31, 2011, he was required to submit the replacement set of fingerprints, or in the alternative, he could surrender her license.
- 13. The January 13th letter was sent to Respondent's home address of record.
- 14. On January 31, 2010, Respondent spoke to the Department's Barbara Beltran at which time he informed her that he was going to surrender his license.
- 15. As of the hearing date, Respondent had not submitted a replacement set of fingerprints and he had not surrendered his license.
- 16. Because Respondent did not submit to the Department a set of fingerprints of sufficient quality for DPS's use in conducting the background check, his application is not complete.

CONCLUSIONS OF LAW

- 1. This matter is a disciplinary proceeding in which the Department bears the burden of persuasion. See A.R.S. § 41-1092.07(G). The standard of proof on all issues is that of a preponderance of the evidence. See A.AC. R2-19-119.
- 2. A preponderance of the evidence is "[e]vidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).
- 3. With his application, Respondent was required to submit to the Department a set of fingerprints. Respondent's submission of fingerprints did not satisfy that requirement because the quality was not sufficient for DPS's use in conducting the required background check. See A.R.S. § 20-285(E)(2).
- 4. Respondent's conduct constitutes a violation of A.R.S., Title 20, which provides grounds for the Director of the Department to revoke Respondent's license. See A.R.S. § 20-295(A)(2).
- 5. Because Respondent did not submit fingerprints of sufficient quality, his application is incomplete in a violation of A.R.S. § 20-295(A)(1), which also provides grounds for the Director of the Department to revoke Respondent's license.

RECOMMENDED ORDER

IT IS ORDERED that Respondent Jesse Samuel Feuer's License No. 970153 is revoked.

In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order will be the date of that certification.

Done this day, December 20, 2011.

/s/ Thomas Shedden
Thomas Shedden
Administrative Law Judge

Transmitted electronically to:

Christina Urias, Director Department of Insurance

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