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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

FIGUEROA, GABRIELA DEL CARMEN (Arizona License No. 1089405) (National Producer No. 17379159)

Respondent.

No. 15A-153-INS

**ORDER** 

On April 27, 2016, the Office of Administrative Hearings, through Administrative Law Judge Suzanne Marwil, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on April 28, 2016, a copy of which is attached and incorporated by this reference. The Interim Director of the Department of Insurance has reviewed the Recommended Decision and enters the following Order:

- The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
- The Interim Director revokes the Arizona resident insurance producer license,
   No. 1089405, of Gabriela del Carmen Figueroa 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 Interim 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 appear the final decision of the interim Director to the Superior					
2	Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an					
3	appeal must notify the Office of Administrative Hearings of the appeal within ten days after					
4	filing the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).					
5	DATED this $28^{10}$ day of $400$ , 2016.					
6						
7	Leslie R. Hess, Interim Director					
8	Arizona Department of Insurance					
9	CODY of the foregoing mailed this					
10	COPY of the foregoing mailed this 2nd day of May, 2016 to:					
11	Gabriela del Carmen Figueroa 1807 W. 36 <sup>th</sup> St.					
12	Tucson, Arizona 85713-3122					
13	Respondent					
14	Gabriela del Carmen Figueroa 7325 N. La Cholla Blvd., Suite 200					
15	Tucson, Arizona 85741 Respondent					
16	Mary Kosinski, Executive Assistant for Regulatory Affairs					
17	Catherine O'Neil, Consumer Legal Affairs Officer Steven Fromholtz, Assistant Director – Consumer Protection Division					
18	Arizona Department of Insurance 2910 North 44th Street, Suite 210					
19	Phoenix, Arizona 85018					
20	Liane Kido Assistant Attorney General					
21	1275 West Washington Street Phoenix, Arizona 85007-2926					
22	Office of Administrative Hearings					
23	1400 West Washington, Suite 101 Phoenix, Arizona 85007					
24	Maidene Scheiner					
25	Maidene Scheiner					

#### IN THE OFFICE OF ADMINISTRATIVE HEARINGS

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AZ DEFT. OF INSURANCE ADMINISTRATIVE SERVICES

In the Matter of:

GABRIELA DEL CARMEN FIGUEROA (Arizona License #1089405)

No. 15A-153-INS

ADMINISTRATIVE LAW JUDGE DECISION

Respondent.

HEARING: April 27, 2016

<u>APPEARANCES</u>: Respondent Gabriela Del Carmen Figueroa did not appear.

The Arizona Department of Insurance was represented by Assistant Attorney General Liane Kido.

**ADMINISTRATIVE LAW JUDGE: Suzanne Marwil** 

# **FINDINGS OF FACT**

- 1. At all times material to this matter, Gabriela Del Carmen Figueroa ("Respondent") was and currently is licensed by the Arizona Department of Insurance ("Department").
- 2. On September 24, 2014, the Department issued Respondent an accident/health producer license, license number 1089405 ("License"), which expires on January 31, 2018. See Exhibit 1.
- 3. Steven Fromholtz, Producer Licensing Administrator of the Licensing Section of the Department, testified that when an application for a 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 ("FBI") for a criminal history background check to be conducted. The Department submits the completed fingerprint forms supplied by the applicant to DPS and DPS submits the fingerprint forms to the FBI for national processing.

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

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- 4. On February 9, 2015, the Department issued a letter to Respondent by mail, informing her that her fingerprint card that was submitted during the application process for the License could not be processed and was returned by DPS as illegible. See Exhibit 3. In that letter, the Department requested that Respondent submit a replacement set of fingerprints and enclosed a blank Illegible Fingerprint Replacement Form. *Id.* The Department provided a deadline of March 11, 2015, for the return of the completed replacement fingerprint form. *Id.*
- 5. Because the Department did not receive the requested replacement fingerprint form from Respondent as requested, the Department sent another letter to Respondent dated June 9, 2015, giving Respondent a deadline of July 9, 2015, to file with the Department an Illegible Fingerprint Replacement Form with a new set of fingerprints or submit a Voluntary Surrender of Insurance License Form. See Exhibit 4. The Department indicated that the failure to respond to the letter would result in the initiation of disciplinary action being taken against the License. *Id*.
- 6. On June 24, 2014, the Department resent the same letter it had sent Respondent on June 9, 2015, extending her deadline to submit a new set of fingerprints to August 24, 2015. See Exhibit 5. As before, the Department indicated that the failure to respond to the letter would result in the initiation of disciplinary action being taken against the License. *Id.*
- 7. The Department subsequently realized it had an alternative address for Respondent and sent another copy of Exhibit 5 to that address on July 31, 2015. See Exhibit 6.
- 8. Mr. Fromholtz testified that to date, Respondent had not responded to the above-mentioned letters and had not submitted to the Department a new set of fingerprints.
- 9. Respondent did not present any evidence to refute or rebut the evidence presented by the Department.

### **CONCLUSIONS OF LAW**

- 1. This matter is a disciplinary proceeding wherein the Department must prove by a preponderance of the evidence that Respondent violated the State's Insurance Laws. See A.A.C. R2-19-119.
- 2. During the application process, the Director of the Department required Respondent to submit a full set of fingerprints and Respondent's illegible fingerprint submission did not satisfy that requirement. See A.R.S. § 20-285(E)(2).
- 3. Respondent's conduct, as set forth above, constitutes a violation of A.R.S. § 20-295(A)(1) by having failed to provide complete information in the license application.
- 4. Respondent's conduct, as set forth above, constitutes the violation of any provision of A.R.S., Title 20, within the meaning of A.R.S. § 20-295(A)(2).
- 5. Grounds exist for the Director of the Department to suspend, revoke, or refuse to renew the License pursuant to A.R.S. § 20-295(A).

# **ORDER**

Based upon the above, Respondent's License shall be revoked on the effective date of the Order entered in this matter.

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 five (5) days from the date of that certification.

Done this day, April 27, 2016.

/s/ Suzanne Marwil Administrative Law Judge

Transmitted electronically to:

Leslie R. Hess, Interim Director Arizona Department of Insurance