

FEB 18 2016

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY MS

In the Matter of:

WHEATON, KYLIE
(Arizona License No. 1087678)
(National Producer No. 17367879)

No. 15A-164-INS

ORDER

Respondent.

On February 10, 2016, the Office of Administrative Hearings, through Administrative Law Judge Dorinda M. Lang, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Interim Director of the Department of Insurance ("Interim Director") on February 10, 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:

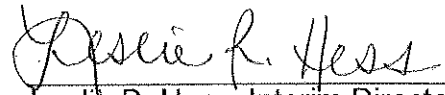
1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director revokes the Arizona resident insurance producer license, No. 1087678, of **Kylie Wheaton** effective immediately.

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.

1 Respondent may appeal 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 16th day of February, 2016.

6
7 
8 Leslie R. Hess, Interim Director
Arizona Department of Insurance

9 COPY of the foregoing mailed this
10 18 day of February, 2016 to:

11 Kylie Wheaton
12 2231 E. Camelback Rd., #300
13 Phoenix, Arizona 85016
Respondent

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

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

19 Office of Administrative Hearings
20 1400 West Washington, Suite 101
Phoenix, Arizona 85007

21
22 
Maidene Scheiner

23
24
25
26

RECEIVED

FEB 10 2016

AZ. DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 15A-164-INS

KYLIE WHEATON
(Arizona License #1087678)

ADMINISTRATIVE
LAW JUDGE DECISION

Respondent.

HEARING: February 2, 2016

APPEARANCES: Liane Kido, Attorney for the Arizona Department of Insurance;
Steven Fromholtz, witness

ADMINISTRATIVE LAW JUDGE: Dorinda M. Lang

FINDINGS OF FACT

1. Respondent submitted an application for a license as an insurance producer to the Arizona Department of Insurance ("Department"). The application requires all applicants to submit fingerprints with the application, which are ultimately forwarded to the Federal Bureau of Investigation ("FBI") for a criminal background check. However, because of the time the process takes, the Department issues the licenses to applicants who are otherwise qualified.

2. On September 10, 2014, the Department issued Respondent an insurance producer's license, which expires on April 30, 2018.¹

3. According to Steven Fromholtz, Producer Licensing Administrator of the Licensing Section of the Department, 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

¹ See Exhibit 2.

1 fingerprint forms to the FBI for national processing. In this case, the fingerprints were
2 returned because they were illegible.

3 4. On February 9, 2015, the Department issued a letter to Respondent by
4 mail, informing the Respondent that the fingerprint card that Respondent submitted
5 during the application process for the License could not be processed and was
6 returned by DPS as illegible. In that letter, the Department requested that Respondent
7 submit a replacement set of fingerprints and enclosed a blank Illegible Fingerprint
8 Replacement Form.²

9 5. Because the Department did not receive the requested replacement
10 fingerprint form from Respondent as requested, the Department sent another letter to
11 Respondent dated June 9, 2014, giving Respondent a deadline of July 9, 2015, to file
12 with the Department an Illegible Fingerprint Replacement Form with a new set of
13 fingerprints or submit a Voluntary Surrender of Insurance License Form. The
14 Department indicated that the failure to respond to the letter would result in the
15 initiation of disciplinary action being taken against the License.³

16 6. The Department sent another letter warning Respondent that it was
17 preparing to take administrative action against her license and requesting a legible
18 fingerprint card on June 24, 2015.⁴

19 7. When no response was received, the Department issued a Notice of
20 Hearing to Respondent's address of record informing Respondent that the issue of
21 whether the failure to submit legible fingerprints was a violation of the statutes
22 governing Respondent's license and the matter was set for hearing.

23 8. Respondent did not appear at the hearing. Mr. Fromholtz testified for the
24 Department that to date, Respondent had not responded to the above-mentioned
25 letters and had not submitted to the Department a new set of fingerprints.

26 9. By failing to appear for the hearing, Respondent was unable to present
27 any evidence to refute or rebut the evidence presented by the Department.
28

29 ² See Exhibit 3.

30 ³ See Exhibit 4.

⁴ See Exhibit 5.

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CONCLUSIONS OF LAW

1. The Notice of Hearing that the Department mailed to Respondent at her address of record was reasonable and she is deemed to have received notice of the hearing.⁵

2. 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.⁶

3. A.R.S. § 20-295(A)(1) and (2) provide as follows:

A. The director may deny, suspend for not more than twelve months, revoke or refuse to renew an insurance producer's license or may impose a civil penalty in accordance with subsection F of this section or any combination of actions for any one or more of the following causes:

1. Providing incorrect, misleading, incomplete or materially untrue information in the license application.
2. Violating any provision of this title or any rule, subpoena or order of the director.

4. A.R.S. § 20-285(E)(2) provides as follows:

E. Before the director grants a license, the director may require the applicant to:

* * *

2. Submit a full set of fingerprints to the department. The department of insurance shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

5. A.R.S. § 20-286(C)(1) provides as follows:

C. A licensee shall inform the director in writing within thirty days of any change in the licensee's:

1. Residential or business address.

⁵ See A.R.S. §§ 41-1092.04; 41-1092.05(D).

⁶ See A.A.C. R2-19-119.

