

APR 26 2017

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY MS

In the Matter of:

**GRAHAM, RUTH BARBARA**  
(Arizona License No. 1061077)  
(National Producer No. 17095096)

**No. 16A-076-INS**

**ORDER**

Respondent.

On April 4, 2017, the Office of Administrative Hearings, through Administrative Law Judge Diane Mihalsky, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Interim Director of the Department of Insurance ("Interim Director") on April 5, 2017, 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:

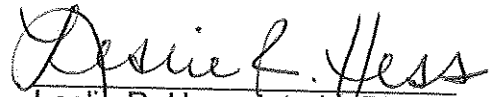
1. The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Interim Director revokes the Arizona resident insurance producer license, No. 1061077, of **Ruth Barbara Graham** effective immediately.

**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 25<sup>th</sup> day of April, 2017.

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

9 COPY of the foregoing mailed this  
10 26<sup>th</sup> day of April, 2017, to:

11 Ruth Barbara Graham  
12 16845 N. 29<sup>th</sup> Ave., Apt. 1441  
13 Phoenix, Arizona 85053  
Respondent

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

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

20 Office of Administrative Hearings  
21 1400 West Washington, Suite 101  
Phoenix, Arizona 85007

22  
23   
24 Maidene Scheiner

25  
26

APR 05 2017

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT. OF INSURANCE  
BY: MEK

In the Matter of:

No. 16A-076-INS

GRAHAM, RUTH BARBARA (Arizona  
License Number 1061077)(National  
Producer Number 17095096),

ADMINISTRATIVE LAW JUDGE

Respondent.

DECISION

**HEARING:** April 4, 2017, at 1:00 p.m.

**APPEARANCES:** The Arizona Department of Insurance ("the Department") was represented by Liane Kido, Esq., Assistant Attorney General; Ruth Barbara Graham ("Respondent") failed to appear.

**ADMINISTRATIVE LAW JUDGE:** Diane Mihalsky

**FINDINGS OF FACT**

1. On or about February 17, 2017, the Department issued a Notice of Hearing setting an evidentiary hearing on April 4, 2017,<sup>1</sup> at 1:00 p.m. at the Office of Administrative Hearings, an independent state agency. The Notice of Hearing alleged certain facts and charged cause to suspend or revoke Respondent's insurance license under A.R.S. § 20-295(A)(6). The Department sent the Notice of Hearing to Respondent via regular and certified mail to her address of record.

2. Respondent did not request to appear telephonically and did not request that the hearing be continued. Although the start of the duly noticed hearing was delayed nineteen minutes to allow Respondent additional travel time, Respondent did not appear, personally or through an attorney, and did not contact the OAH to request that the start of the hearing be further delayed. Consequently, Respondent did not present any evidence to defend her insurance license.

3. The Department appeared through its attorney, presented the testimony of Aqueelah Currie, Licensing Supervisor, and submitted two exhibits to establish the facts set forth below.

<sup>1</sup> The Department's original Notice of Hearing set the hearing on April 4, 2016, but the Department corrected the scrivener's error in a Notice of Errata on February 21, 2017.

1 4. On or about October 22, 2013, the Department issued an insurance license to  
2 Respondent. That license expired on February 28, 2017.<sup>2</sup>

3 5. On or about June 22, 2015, Respondent was convicted pursuant to her guilty  
4 plea of the crime of burglary in the first degree, a felony, in violation of California statute  
5 PC 459, in the Superior Court of California, County of Riverside Case No. RIF1500488.<sup>3</sup>

6 6. As a result of the conviction, Respondent was sentenced to pay \$19,500.00 in  
7 restitution, to serve 90 days in custody, and to be placed on probation for 36 months.

#### 8 CONCLUSIONS OF LAW

9 1. The Notice of Hearing that the Department mailed to Respondent at her  
10 address of record was reasonable and she is deemed to have received notice of the  
11 hearing.<sup>4</sup>

12 2. The Interim Director of the Department has jurisdiction over this matter.

13 3. The Department bears the burden of proof to establish cause to suspend or  
14 revoke Respondent's insurance license by a preponderance of the evidence.<sup>5</sup>

15 4. "A preponderance of the evidence is such proof as convinces the trier of fact  
16 that the contention is more probably true than not."<sup>6</sup>

17 5. The Department established that Respondent has been convicted of a felony,  
18 thereby furnishing cause to suspend or revoke her insurance license under A.R.S. § 20-  
19 295(A)(6).<sup>7</sup>

20 6. Respondent's failure to attend the hearing or to offer any evidence to defend  
21 her license indicates that, at this time, she cannot be regulated.

#### 22 RECOMMENDED ORDER

23 Based on the foregoing, it is recommended that Respondent Ruth Barbara  
24 Graham's Insurance License No. 1061077 shall be revoked.

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26  
27 <sup>2</sup> See the Department's Exhibit 1.

<sup>3</sup> See the Department's Exhibit 2.

<sup>4</sup> See A.R.S. §§ 41-1092.04; 41-1092.05(D).

<sup>5</sup> See A.R.S. § 41-1092.07(G)(1); A.A.C. R2-19-119; see also *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

<sup>6</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

<sup>7</sup> A.R.S. § 20-295(A)(6) allows the Director of the Department to suspend or revoke an insurance producer's license for "[h]aving been convicted of a felony."

