STATE OF ARIZONA FILED

AUG 2 3 2017

STATE OF ARIZONA

DEPT OF INSURANCE

DEPARTMENT OF INSURANCE BY

MS

In the Matter of:

BRONCHO, PAULINO LAMAR (National Producer No. 17712007) (Legacy License ID 1123119) No. 16A-083-INS

ORDER

Respondent.

On August 21, 2017, the Office of Administrative Hearings, through Administrative Law Judge Kay Abramsohn, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on August 21, 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:

- The Interim Director adopts the Recommended Findings of Fact and Conclusions of Law.
- The Interim Director revokes the Arizona resident insurance producer license,
 National Producer No. 17712007, of Paulino Lamar Broncho 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.

8

9

10

1

2

3

4

5

6

7

11 12

13

14

15

16 17

18

19

20 21

22

23

24

25

26

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 22nd day of August, 2017.
6	
7	Leslie R. Hess, Interim Director
8	Arizona Department of Insurance
9	COPY of the foregoing mailed this
10	COPY of the foregoing mailed this day of <u>August</u> , 2017, to:
11	Paulino Lamar Broncho 70 Querio Drive, #3
12	Lake Havasu City, Arizona 86403
13	Respondent
14	Mary Kosinski, Regulatory Legal Affairs Officer Catherine O'Neil, Consumer Legal Affairs Officer Character Franch Mary Assistant Director Consumer Protection Division
15	Steven Fromholtz, Assistant Director – Consumer Protection Division Aqueelah Currie, Licensing Supervisor Sharyn Kerr, Consumer Protection Division
16	Arizona Department of Insurance 2910 North 44th Street, Suite 210
17	Phoenix, Arizona 85018
18	Liane Kido Assistant Attorney General
19	1275 West Washington Street Phoenix, Arizona 85007-2926
20	Office of Administrative Hearings
21	1400 West Washington, Suite 101 Phoenix, Arizona 85007
22	
23	Maidene Scheiner
24	

AUG 2 1 2017

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 16A-083-INS-RES

DEPT. OF INSURANCE BY: MEK

BRONCHO, PAULINO LAMAR
(National Producer Number 17712007)
(Arizona/Legacy License ID 1123119)
Respondent.

ADMINISTRATIVE LAW JUDGE DECISION

HEARING: August 1, 2017

APPEARANCES: Paulino Lamar Broncho ("Mr. Broncho") failed to appear; the Arizona Department of Insurance ("the Department") was represented by Liane Kido, Esq., Assistant Attorney General.

ADMINISTRATIVE LAW JUDGE: Kay Abramsohn

FINDINGS OF FACT

- 1. On September 11, 2015, Mr. Broncho submitted to the Department an application ("Application") for an Insurance License for an Individual. Mr. Broncho provided the address of 70 Querio Dr. #3, Lake Havasu City, AZ 86403 ("address of record") on the application.¹
- 2. The Department licensed Mr. Broncho as an Arizona resident insurance producer with an accident and health or sickness line of authority, under Arizona License No. 1123119, on September 11, 2015.² The license expires on April 30, 2019.
- 3. On the application, Mr. Broncho answered "no" to the question, "Have you EVER been found guilty of, have you had a judgment made against you for, or have you admitted to . . . a felony (of any kind)?"³
 - The Application provides an attestation that states as follows:

By signing and submitting this application, you agree to all the following:

You attest that you have read and understand the foregoing. You certify, under penalty of denial, suspension or revocation of the license and under other penalties that may apply that the answers, statements and information furnished in connection with this license application are true, correct and complete to the best of your knowledge and belief.

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

6 7

8

9

5

3

10 11

12 13

14 15

16 17

18 19

20 21

22

23 24

25

26 27

28

29 30

¹ Exhibit 2.

² The Department has converted its Arizona license numbers to the National Producer licensing system, and Mr. Broncho's National Producer License No. is 17712007.
³ Id.

7

10

13

16

19 20

21

22 23

24 25

> 26 27

28 29

30

- 4 Exhibit 3. ⁵ Exhibit 4.
- See A.R.S. §§ 20-281 to 20-302.
 See A.R.S. §§ 41-1092.04; 41-1092.05(D).

- 5. However, through the results of a background check, the Department discovered two felonies on Mr. Broncho's record.
- 6. On August 12, 19967, Mr. Broncho was found guilty of Fraud Insufficient funds check, a felony, in Case No. CR-1996-0000124-FE, in Bannock County District Court, in the state of Idaho.4
- 7. On March 18, 2002, Mr. Broncho was found guilty of Battery-Aggravated, a felony, in Case No. CR-2001-0027425-FE, in Bonneville County District Court, in the state of Idaho.5
- 8. On June 14, 2017, the Department issued a Notice of Hearing, setting a hearing on August 1, 2017, at 1:00 p.m. at the Office of Administrative Hearings ("OAH"). The Department sent the Notice of Hearing to Mr. Broncho at his address of record. The Notice of Hearing informed Mr. Broncho that the Department sought to revoke Mr. Broncho 's license because he provided misleading, incomplete or materially untrue information on his application pursuant to A.R.S. § 20-295(A)(1) and had been convicted of a felony within the meaning of A.R.S. § 20-295(A)(6).
- 9. The noticed hearing convened on August 1, 2017. Mr. Broncho did not request to appear telephonically at the hearing and did not request that the hearing be continued. Although the start of the duly noticed hearing was delayed to allow Mr. Broncho additional travel time to appear, he did not appear, personally or through any representative, and did not contact OAH to request that the start of the hearing be further delayed. Consequently, Mr. Broncho did not present any evidence to defend his license.
- 10. The Department presented the testimony of Aqueelah Currie, its Licensing Supervisor, who testified consistently with the facts detailed above. The Department presented four exhibits which were admitted to the hearing record.

CONCLUSIONS OF LAW

- 1. This matter lies within the Department's jurisdiction.6
- 2. The Notice of Hearing that the Department mailed to Mr. Broncho at his address of record, and Mr. Broncho is deemed to have received notice of the hearing.⁷

 3. A.R.S. § 20-295(A) provides in pertinent part that:

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.
- 6. Having been convicted of a felony.
- 4. Mr. Broncho has been convicted, in the past, of two felonies. Therefore, grounds exists, under A.R.S. § 20-295(A)(6), for the Director of the Department to revoke Mr. Broncho's insurance license.
- 5. In addition, Mr. Broncho failed to disclose his convictions and answered "No," when asked if he had ever been convicted of a felony. The failure to disclose his convictions constitutes providing incomplete, misleading or materially untrue information on an insure application pursuant to A.R.S. § 20-295(A)(1). This failure to disclose also provides the Department with additional grounds to revoke Mr. Broncho's insurance license.
- 6. Mr. Broncho bears the burden of proof to establish that he is rehabilitated and qualified to receive an insurance license by a preponderance of the evidence.⁸ "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."
- 7. By failing to appear or to present any evidence that he is rehabilitated or qualified to hold an insurance license, Mr. Broncho failed to carry his burden to establish that the Department erred in deciding to revoke his insurance license.

RECOMMENDED ORDER

⁸ 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).

⁹ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

 Based on the foregoing, it is recommended that the Director of the Department revoke Mr. Broncho's insurance license.

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 days from the date of that certification.

Done this day, August 21, 2017.

/s/ Kay Abramsohn Administrative Law Judge

Transmitted electronically to:

Leslie R. Hess, Interim Director Arizona Department of Insurance