

JUL 24 2019

DEPT OF INSURANCE
BY MEK 7/24/19

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

YOGERST, VANIA
(National Producer Number 18556246)

Respondent.

No. 18A-120-INS

ORDER

On July 19, 2019, the Office of Administrative Hearings, through Administrative Law Judge Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on July 22, 2019, 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:

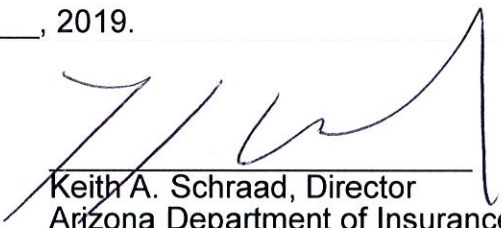
1. The Director adopts the Recommended Findings of Fact, Conclusions of Law and Recommended Order.
2. The Director revokes the Arizona resident insurance producer license of **Vania Yogerst**, National Producer Number 18556246, effective immediately.

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 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 Director to the Superior Court of
2 Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal
3 must notify the Office of Administrative Hearings of the appeal within ten days after filing
4 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 23rd day of July, 2019.

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8 
Keith A. Schraad, Director
Arizona Department of Insurance

9 **COPY** of the foregoing mailed this
10 25th day of July, 2019, to:

11 Vania Yogerst
12 9318 N. 85th Drive
13 Peoria, AZ 85345
14 Respondent

15 Vania Yogerst
16 16404 N. Black Canyon Hwy #100
17 Phoenix, AZ 85053
18 Respondent

19 Office of Administrative Hearings
20 1740 West Adams St., Lower Level
21 Phoenix, Arizona 85007

22 **COPY** of the foregoing delivered, same date, to:

23 Mary Kosinski, Regulatory Legal Affairs Officer
24 Catherine O'Neil, Consumer Legal Affairs Officer
25 Steven Fromholtz, Assistant Director – Consumer Protection Division
26 Aqueelah Currie, Licensing Supervisor
Sharyn Kerr, Consumer Protection Division
Arizona Department of Insurance
100 North 15th Ave., Suite 102
Phoenix, Arizona 85007-2624

COPY sent same date via electronic mail to:

24 Vania Yogerst
25 viewi002@yahoo.com
26 Respondent

1 Deian Ousounov
Assistant Attorney General
2 AdminLaw@azag.gov
Attorney for the Department of Insurance
3

4 Felicia DelSol
Felicia.DelSol@azoah.com
5 Office of Administrative Hearings

6 Susan Hack
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7 Attorney General Paralegal

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10 Francine Martinez

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JUL 22 2019

DEPT. OF INSURANCE
BY: MEK 7/22/19

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 18A-120-INS

Yogerst, Vania
(National Producer No. 18556246)

**ADMINISTRATIVE LAW JUDGE
DECISION**

Respondent

HEARING: July 9, 2019

APPEARANCES: No one appeared for Respondent; Deian Ousounov, Esq. for the
Department of Insurance

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

1. On May 21, 2019, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing at 1:00 p.m. July 9, 2019.
2. No representative for Respondent Vania Yogerst appeared at the scheduled time and the matter was convened in her absence at about 1:43 p.m.
3. On or about October 2, 2017, Respondent submitted to the Department an application for an insurance producer's license. On that date the Department issued to Respondent License No. 18556246, which is scheduled to expire on April 30, 2021.
4. With her application, Respondent included a copy of her fingerprints.
5. The Department forwarded Respondent's fingerprints the Arizona Department of Public Safety to obtain a state and federal criminal records check. Respondent's fingerprints were illegible and not of sufficient quality for use in conducting the criminal records check.
6. An applicant who submits illegible fingerprints is considered by the Department to have submitted an incomplete application.

1 7. In a letter dated March 16, 2018 that was sent to Respondent's mailing address
2 of record, the Department informed Respondent that on or before April 6, 2018 she was
3 required to submit to the Department a replacement set of fingerprints. With that letter,
4 the Department included a blank fingerprint card, the appropriate form to complete, and
5 a list of locations at which Respondent could be fingerprinted.

6 8. The Department did not receive from Respondent any response to its March 16,
7 2018 letter.

8 9. In a letter dated April 17, 2018 that was sent to Respondent's business address
9 of record, the Department informed Respondent that it was preparing to initiate an
10 administrative action against her license because she had failed to submit a full set of
11 fingerprints.

12 10. The Department's April 17, 2018 letter also informed Respondent that on or
13 before May 4, 2018, she was required to submit the replacement set of fingerprints, or
14 in the alternative, she could surrender her license.

15 11. Respondent did not submit a replacement set of fingerprints and she did not
16 surrendered her license.

17 12. The Department requested that Respondent's license be revoked.

18 **CONCLUSIONS OF LAW**

19 1. The Department bears the burden of persuasion. ARIZ. REV. STAT. § 41-
20 1092.07(G)(2).

21 2. The standard of proof on all issues is that of a preponderance of the evidence.
22 ARIZ. ADMIN. CODE § R2-19-119.

23 3. A preponderance of the evidence is:

24 The greater weight of the evidence, not necessarily
25 established by the greater number of witnesses testifying to a
26 fact but by evidence that has the most convincing force;
27 superior evidentiary weight that, though not sufficient to free
28 the mind wholly from all reasonable doubt, is still sufficient to
incline a fair and impartial mind to one side of the issue rather
than the other.

29 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

1 4. With her application, Respondent was required to submit to the Department a
2 complete set of fingerprints. Respondent's submission of fingerprints did not satisfy this
3 requirement because the quality was not sufficient for the Arizona Department of Public
4 Safety to conduct the required state and federal criminal records check. See ARIZ. REV.
5 STAT. § 20-285(E)(2).

6 5. Because Respondent did not submit fingerprints of sufficient quality, her
7 application is incomplete, which is a violation of ARIZ. REV. STAT. section 20-295(A)(1).

8 6. Respondent's conduct constitutes a violation of ARIZ. REV. STAT., Title 20, which
9 provides grounds for the Director of the Department to revoke Respondent's license.
10 ARIZ. REV. STAT. § 20-295(A)(2).

11 **RECOMMENDED ORDER**

12 **IT IS ORDERED** that Respondent Vania Yogerst's License No. 18556246 is
13 revoked.

14 *In the event of certification of the Administrative Law Judge Decision by the Director of*
15 *the Office of Administrative Hearings, the effective date of the Order will be five days*
16 *after the date of that certification.*

17 Done this day, July 19, 2019.

18
19 /s/ Thomas Shedden
20 Thomas Shedden
21 Administrative Law Judge

22 Transmitted electronically to:

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24 Keith A. Schraad, Director
25 Arizona Department of Insurance
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