

AUG 08 2019

DEPT OF INSURANCE
BY MEK 8/8/19

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

BESERRA, SHAWNETTE CYRA CECILE
(National Producer Number 18955253)

Respondent.

No. 19A-017-INS

ORDER

On July 29, 2019, the Office of Administrative Hearings, through Administrative Law Judge Antara Nath Rivera, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on July 31, 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 except to correct the caption to remove "... the Real Estate Salesperson License of."
2. The Director revokes the Arizona resident insurance producer license of **Shawnette Cyra Cecile Beserra**, National Producer Number 18955253, effective immediately.

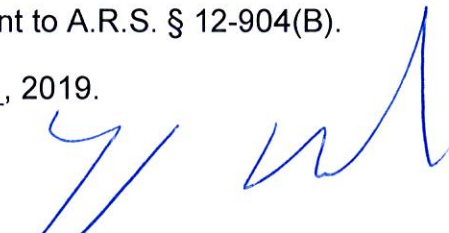
NOTIFICATION OF RIGHTS

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

1 for relief under A.A.C. R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary
2 to request a rehearing before filing an appeal to Superior Court.

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

7 DATED this 7th day of August, 2019.

8
9
10 
Keith A. Schraad, Director
Arizona Department of Insurance

11 **COPY** of the foregoing mailed this
12 9th day of August, 2019, to:

13 Shawnette Beserra
14 6445 S Maple Ave., Apt 2018
15 Tempe, AZ 85283
Respondent

16 Shawnette Beserra
17 2390 E. Camelback Rd., Unit 130
18 Phoenix, AZ 85016
Respondent

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

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

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

1 **COPY** sent same date via electronic mail to:

2 Shawnette Beserra
3 Shbeserra12@gmail.com
4 Respondent

5 Deian Ousounov
6 Assistant Attorney General
7 AdminLaw@azag.gov
8 Attorney for the Department of Insurance

9 Susan Hack
10 Susan.hack@azag.gov
11 Attorney General Paralegal

12 Felicia DelSol
13 Felicia.DelSol@azoah.com
14 Office of Administrative Hearings

15 
16 Francine Martinez

17
18
19
20
21
22
23
24
25
26

JUL 31 2019

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT. OF INSURANCE
BY: MEK

In the Matter of the Real Estate
Salesperson License of:

Shawnette Cyra Cecile Beserra
(National Producer No. 18955253)
Respondent.

No. 19A-017-INS

ADMINISTRATIVE LAW JUDGE
DECISION

HEARING: July 11, 2019

APPEARANCES: Respondent did not appear. The Arizona Department of Insurance was represented by Assistant Attorney General Deian Ousounov.

ADMINISTRATIVE LAW JUDGE: Antara Nath Rivera

FINDINGS OF FACT

1. On October 26, 2018, Respondent Shawnette Cyra Cecile Beserra (Respondent) submitted to the Arizona Department of Insurance (Department) an application (Application) for an Insurance License. Respondent provided a residence address of 6445 South Maple Avenue, Apt. 2018, Tempe, AZ, 85283 and a business address of 2390 East Camelback Road, Unit 130, Phoenix, AZ 85016. Respondent provided a business and individual email address of shbeserra12@gmail.com. Respondent provided a residence and business phone number of 480-306-9170.

2. On the application, Respondent answered "no" to the following questions:

1A: Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?

1B: Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?

3. The Application provided the following attestation:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

1 4. Because Respondent's application, on its face, did not raise any issues,
2 the Department licensed Respondent as an Insurance Producer with an accident and
3 health or sickness line of authority, under License Number 18955253, on November 5,
4 2018. The license expires on February 28, 2022.

5 5. Through the background check, the Department discovered that, on or
6 after February 11, 2011, Respondent entered a guilty plea for one count of Grand Theft
7 Money Labor Prop 950, a misdemeanor, in Three Lakes Municipal Court Perris
8 (California).

9 6. The Department presented the testimony of Aqueelah Currie (Ms. Currie),
10 Licensing Supervisor, who testified consistently with the facts detailed above. Ms.
11 Currie testified that due to the nature of the conviction and Respondent's untruthfulness
12 on the application, there was a concern of Respondent's moral turpitude.

13 **CONCLUSIONS OF LAW**

14 1. This matter lies within the Department's jurisdiction.¹

15 2. The Department bears the burden of proof to establish by a
16 preponderance of the evidence, that discipline is warranted.² "A preponderance of the
17 evidence is such proof as convinces the trier of fact that the contention is more
18 probably true than not."³

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

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

24 1. Providing incorrect, misleading, incomplete or materially untrue
25 information in the license application.

26 4. Respondent's failure to appear resulted in the lack of evidence that her
27 Application was truthful. On her Application, Respondent failed to disclose her
28 conviction and answered "No," to the relevant questions. The failure to disclose her

29 ¹ See A.R.S. §§ 20-281 to 20-302.

30 ² 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).

³ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

1 conviction constitutes providing incomplete, misleading or materially untrue information
2 on an insure application pursuant to A.R.S. § 20-295(A)(1). This failure to disclose
3 also provides the Department with grounds to revoke Respondent's insurance license.
4

5
6 **RECOMMENDED ORDER**

7 Based on the foregoing, it is recommended that the Director of the Department
8 revoke Respondent's insurance license.

9 *In the event of certification of the Administrative Law Judge Decision by the*
10 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
11 *five days from the date of that certification.*

12 Done this day, July 29, 2019.

13
14 /s/ Antara Nath Rivera
15 Administrative Law Judge
16

17 Transmitted electronically to:

18 Judy Lowe, Commissioner
19 Arizona Department of Real Estate
20
21
22
23
24
25
26
27
28
29
30