

NOV 19 2019

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE
BY AS 11/19/2019

In the Matter of:

MARTINEZ, ARLETTE

(National Producer No. 18782790)

Respondent.

No. 19A-035-INS

ORDER

On November 12, 2019, the Office of Administrative Hearings through Administrative Law Judge Diane Mihalsky issued an Administrative Law Judge Decision (“Recommended Decision”) received by the Director of the Arizona Department of Insurance (“Director”) on November 13, 2019, a copy of which is attached and incorporated by reference. The Director has reviewed the Recommended Decision and enters the following:

1. The Director adopts the Recommended Findings of Fact, Conclusions of Law and Recommended Order.
2. The Director orders that Arlette Martinez’s insurance producer license number 18782790 is revoked, effective immediately.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Respondent may request a rehearing or review with respect to this Order by filing a written motion with the Director of the Department of Insurance within 30 days after the date of this Order, setting forth the basis for relief under Arizona Administrative Code 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 the Superior Court.

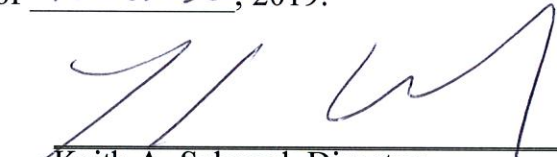
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1 Respondent may appeal the final decision of the Director to the Superior Court of
2 Maricopa County for judicial review, pursuant to A.R.S. § 20-166. A party filing an appeal
3 must notify the Office of Administrative Hearings of the appeal within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

5 DATED this 19th day of November, 2019.

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Keith A. Schraad, Director
Arizona Department of Insurance

15 **COPY** of the foregoing electronically transmitted
16 this 20th day of November, 2019, to:

17 Diane Mihalsky, Administrative Law Judge
18 Office of Administrative Hearings
19 <https://portal.azoah.com/submission>

20 **COPY** of the foregoing **MAILED** same date by U.S. First-Class Mail
and Certified Mail, Return Receipt Requested to:

21 Arlette Martinez
22 4414 West Monterey Way
23 Phoenix, AZ 85031
Respondent

24 Arlette Martinez
25 8476 West Thunderbird Road
26 Peoria, AZ 85381
Respondent

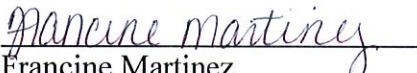
1 **COPY** of the foregoing delivered same date to:

2 Mary Kosinski, Regulatory Legal Affairs Officer
3 Ana Starcevic, Paralegal Project Specialist
4 Steven Fromholtz, Assistant Director for Consumer Protection
5 Aqueelah Currie, Licensing Manager
6 Sharyn Kerr, Administrative Assistant, Consumer Protection Division
7 Arizona Department of Insurance
8 100 N 15th Ave. #102
9 Phoenix, Arizona 85007

7 **COPY** of the foregoing electronically transmitted, same date, to:

8 Arlette Martinez
9 arl212248@maricopa.edu
10 Respondent

11 Chloe Woods, Assistant Attorney General
12 AdminLaw@azag.gov
13 Attorney for the Arizona Department of Insurance

14 
15 Francine Martinez

NOV 13 2019

DEPT. OF INSURANCE
BY: AS

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 19A-035-INS

MARTINEZ, ARLETTE
(National Producer No. 18782790)

**ADMINISTRATIVE LAW JUDGE
DECISION**

Respondent

HEARING: November 12, 2019, at 1:00 p.m.

APPEARANCES: The Arizona Department of Insurance ("the Department") was represented by Chloe Woods, Esq., Assistant Attorney General; Arlette Martinez ("Respondent") failed to appear.

ADMINISTRATIVE LAW JUDGE: Diane Mihalsky

FINDINGS OF FACT

1. The Department referred this matter to the Office of Administrative Hearings ("OAH"), an independent state agency, for an evidentiary hearing.
2. On or about September 27, 2019, the Department issued a Notice of Hearing, setting a hearing on November 12, 2019, at 1:00 p.m. on the issue of whether cause existed under A.R.S. §§ 20-285(E)(1) and (2) and 20-295(A)(1) and (2) to discipline Respondent's insurance producer's license. The Department sent the Notice of Hearing to Respondent at her addresses of record via U.S. First-Class Mail and Certified Mail, Return Receipt.
3. A hearing was held on November 12, 2019. The Department submitted five exhibits and presented the testimony of Aqueelah Currie, its Licensing Supervisor.
4. Respondent 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 twenty-eight minutes to allow Respondent additional travel time, Respondent did not appear, personally or through an attorney, and did not contact

1 OAH to request that the start of the hearing be further delayed. Consequently,
2 Respondent did not present any evidence to defend her insurance producer's license.

3 **HEARING EVIDENCE**

4 5. Ms. Currie testified that persons who desire to be licensed as insurance
5 producers in Arizona are required to take an examination and, after they have passed
6 the examination, to file an application to the Department. Applicants are also required
7 to provide additional documentation, including their fingerprints, to allow the
8 Department to obtain a criminal background check from the Arizona Department of
9 Public Safety ("ADPS").

10 6. Ms. Currie testified that, after the Department issues a license, licensees are
11 required to notify the Department of any changes in contact information within 30 days.
12 This requirement allows the Department to communicate and to regulate licensees.

13 7. On or about May 8, 2018, Respondent filed a handwritten application with the
14 Department to be licensed as an insurance producer in Arizona. Respondent provided
15 the address, 4414 W. Monterey Way, Phoenix, Arizona 85031, for her residence and
16 mailing address. Respondent provided her business address as 8176 W. Thunderbird
17 Rd., Peoria, Arizona 85381.¹

18 8. On or about May 9, 2018, the Department issued National Insurance
19 Producer's License No. 18782790 to Respondent. As of this date, Respondent's
20 insurance producer's license is active.²

21 9. On or about August 10, 2018, the Department sent a letter to Respondent at
22 her address of record on W. Monterey Way, informing her that, because ADPS had
23 returned the fingerprint card to the Department as illegible, the Department required
24 Respondent to submit a replacement set of fingerprints on or before August 22, 2018.
25 An attachment to the letter provided the locations of fingerprinting services.³

26 10. Ms. Currie testified that Respondent did not respond to the Department's
27 August 10, 2018 letter. She also did not ever update her address of record.

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29 ¹ See the Department's Exhibit 2.

² See the Department's Exhibit 1.

30 ³ See the Department's Exhibit 3.

1 11. On or about September 10, 2018, the Department sent a second letter to
2 Respondent at business address on W. Thunderbird Rd., requiring her to either submit
3 a new set of fingerprints or to submit a voluntary surrender of her insurance producer's
4 license to the Department on or before October 1, 2018.⁴

5 12. On or about September 24, 2018, the U.S. Post Service returned to the
6 Department the letter that it had sent to her business address of record on W.
7 Thunderbird Rd., marked, "Return to Sender Insufficient Address, Unable to Forward."⁵

8 13. Ms. Currie testified that Respondent did not respond to the Department's
9 September 10, 2018 letter. Ms. Currie testified that Respondent's license application
10 was therefore incomplete.

11 **CONCLUSIONS OF LAW**

- 12 1. This matter lies within the Department's jurisdiction.⁶
- 13 2. The Notice of Hearing that the Department mailed to Respondent at the
14 address that she provided on application was reasonable she is deemed to have
15 received notice of the hearing.⁷
- 16 3. A.R.S. § 20-285 required Respondent to file an application with the
17 Department to be licensed and to transact business as an insurance producer. A.R.S.
18 § 20-285(E) allows the Department to require Respondent to submit fingerprints to
19 allow ADPS to obtain a criminal history as a condition of licensure.⁸

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22 ⁴ See the Department's Exhibit 4.
23 ⁵ See the Department's Exhibit 5.
24 ⁶ See A.R.S. §§ 20-142, 20-282.
25 ⁷ See A.R.S. §§ 41-1092.04; 41-1092.05(D).
26 ⁸ A.R.S. § 20-282(E) provides as follows:

27 Before the director grants a license, the director may require the
28 applicant to:
29 1. Provide any document that is reasonably necessary to verify the
30 information that is contained in an application and other information
including prior criminal records.
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.

1 4. Because Respondent's illegible fingerprint submission did not satisfy the
2 requirement of A.R.S. § 20-285(E)(2), the Department established that her application
3 is incomplete. Grounds therefore exist under A.R.S. § 20-295(A)(1) and (2) to
4 discipline her insurance producer's license.⁹

5 5. Respondent's failures to respond to the Department's correspondence, to
6 update her addresses of record with the Department, or to appear at the duly noticed
7 hearing indicate that, at this time, she cannot be regulated.

8 **ORDER**

9 Based upon the above, **IT IS ORDERED** that, on the effective date of the final
10 order in this matter, Respondent's National Producer License No. 18782790 shall be
11 revoked.

12 *In the event of certification of the Administrative Law Judge Decision by the*
13 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
14 *five (5) days from the date of that certification.*

15 Done this day, November 12, 2019.

16 /s/ Diane Mihalsky
17 Administrative Law Judge

18 Transmitted electronically to:

19 Keith A. Schraad, Director
20 Arizona Department of Insurance
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26 ⁹ A.R.S. § 20-295(A) provides in relevant part as follows:

- 27 The director may deny, suspend for not more than twelve months,
28 revoke or refuse to renew an insurance producer's license or may
29 impose a civil penalty in accordance with subsection F of this section or
30 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.