STATE OF ARIZONA FILED

STATE OF ARIZONA DEPARTMENT OF INSURANCE

DEC 03 2019

In the Matter of:

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DEPT OF INSURANCE BY 45 12/03/2019

GARCIA, ROXANNE

No. 19A-077-INS

(National Producer No. 7732988)

ORDER

Respondent.

On November 26, 2019, the Office of Administrative Hearings through Administrative Law Judge Jenna Clark issued an Administrative Law Judge Decision ("Recommended Decision") received by the Director of the Arizona Department of Insurance ("Director") on November 26, 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 Roxane Garcia's insurance producer license number 7732988 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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Order; 19A-077-INS Continued

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 complaint commencing the appeal, pursuant A.R.S. § 12-904(B). 4 DATED this _ 3rd day of _ December, 2019. 5 6 7 Keith A. Schraad, Director 8 Arizona Department of Insurance 9 10 11 12 **COPY** of the foregoing electronically transmitted 13 this 4th day of December, 2019, to: 14 Kay Abramsohn, Administrative Law Judge 15 Office of Administrative Hearings https://portal.azoah.com/submission 16 17 **COPY** of the foregoing **MAILED** same date by U.S. First-Class Mail and Certified Mail, Return Receipt Requested to: 18 Roxanne Garcia 19 4372 E. Mesquite Trail 20 Tucson, AZ 85706 Respondent 21 **COPY** of the foregoing delivered same date to: 22 23 Mary Kosinski, Regulatory Legal Affairs Officer Ana Starcevic, Paralegal Project Specialist 24 Steven Fromholtz, Assistant Director for Consumer Protection Jeff Eavenson, Investigator 25 100 N 15th Ave. #102 26 Phoenix, Arizona 85007

Order; 19A-077-INS

	Continued	
1	COPY of the foregoing electronically transmitted, same date, to:	
2	Roxanne Garcia	
3	rgarcia_7@yahoo.com Respondent	
4	Deian Ousounov, Assistant Attorney General	
5	Deian.Ousounov@azag.gov AdminLaw@azag.gov	
6	Attorney for the Arizona Department of Insurance	
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8	Francine Martinez	
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NOV 26 2019

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

DEPT, OF INSURANCE

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29 30 In the Matter of:

GARCIA, ROXANNE (National Producer No. 7732988) Respondent

No. 19A-077-INS

ADMINISTRATIVE LAW JUDGE DECISION

HEARING: November 7, 2019.

APPEARANCES: Respondent Roxanne Garcia did not appear. Assistant Attorney General Deian Ousounov represented the Arizona Department of Insurance ("Department").

ADMINISTRATIVE LAW JUDGE: Kay Abramsohn

FINDINGS OF FACT

- 1. The Department issued a Notice of Hearing ("Notice") advising Respondent of a hearing date and time of November 7, 2019, at 1:00 p.m., at the Office of Administrative Hearings located at 1740 West Adams, Lower Level, Phoenix, Arizona. The Notice was sent to Respondent through regular mail and electronic mail.
- 2. The Tribunal waited a minimum of 15 minutes to convene the hearing in order to afford additional time for Respondent; she failed to appear. Respondent had not contacted the Office of Administrative Hearings to advise of any reason for his absence or a delay, nor did she request to appear telephonically or that the hearing be continued. Therefore, the hearing proceeded in Respondent's absence.¹
- At all times relevant to this matter, Respondent was licensed with National Producer Number 7732988 by the Department; that license expired on December 31, $2018.^{2}$
- The Department was notified that Respondent had resigned in lieu of being been terminated by her employer "for cause." The Department learned that Respondent had failed to apply a premium payment to a consumer's insurance policy and, instead, was using the funds personally.
 - 5. The Department subsequently subpoenaed documents from Respondent.⁴

See A.A.C. R2-19-117.

See Exhibit 1.

³ See Exhibit 2 and Exhibit 3.

⁴ See Exhibit 4.

- 6. Respondent failed to respond and failed to provide any documents.
- 7. The Department argued that Petitioner's License should be revoked based on Petitioner's actions in violation of the Arizona insurance statutes and rules.

CONCLUSIONS OF LAW

- 1. This matter is a disciplinary proceeding wherein the Department must prove by a preponderance of the evidence that Petitioner violated the State's Insurance Laws. See A.A.C. R2-19-119.
- 2. Respondent's conduct, as set forth above and in the Notice of Hearing, constitutes a violation of A.R.S. § 20-295(A)(4) for misappropriating or converting monies received in the course of doing insurance business.
- 3. Respondent's conduct, as set forth above and in the Notice of Hearing, constitutes a violation of A.R.S. § 20-295(A)(2) for failing to respond to the Director's subpoena, *i.e.*, violating an order of the Director.
- 4. Based on the foregoing, grounds exist for the Department's Director to suspend or revoke Respondent's License pursuant to A.R.S. § 20-295.

RECOMMENDED ORDER

IT IS ORDERED Respondent's National Producer License No. 7732988 is revoked on the effective date of the Department's Order entered in this matter.

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 (5) days from the date of that certification.

Done this day, November 26, 2019.

/s/ Kay Abramsohn Administrative Law Judge

Transmitted electronically to:

Keith A. Schraad, Director Arizona Department of Insurance