

JUL 16 1998

DEPT. OF INSURANCE
BY Kath

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:)
DIANA CASTANEDA)
Respondent.)
_____)

Docket No. 98A-043-INS

ORDER

On July 9, 1998, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted Recommended Decision of Administrative Law Judge ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

1. Recommended findings of fact ¶ 1 and ¶¶ 3-10 and all of the conclusions of law are adopted.

2. Recommended finding of fact ¶ 2 is amended to correct a clerical error:

On April 26, 1995, Ms. Castaneda filed an application for a life and disability insurance agent license (the "Application") with the Department.

3. All insurance licenses issued by the Department to Diana Castaneda are revoked.


NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R20-6-114(B).

The final decision of the Director may be appealed to the Superior Court of Maricopa County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of

1 Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal,
2 pursuant to A.R.S. § 41-1092.10.

3 DATED this 16 of July, 1998

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5 
6 John A. Greene
7 Director of Insurance

8 A copy of the foregoing mailed
9 this 16 day of July, 1998

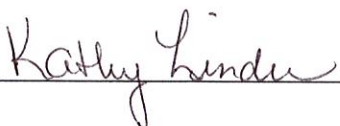
10 Charles R. Cohen, Deputy Director
11 Gregory Y. Harris, Executive Assistant Director
12 John Gagne, Assistant Director
13 Catherine O'Neil, Assistant Director
14 Maureen Catalioto, Supervisor
15 Department of Insurance
16 2910 N. 44th Street, Suite 210
17 Phoenix, AZ 85018

18 Office of Administrative Hearings
19 1700 W. Washington, Suite 602
20 Phoenix, AZ 85007

21 Michael J. De La Cruz
22 Assistant Attorney General
23 1275 W. Washington
Phoenix, AZ 85007

Diana Castaneda
5869 N. 81st Street
Scottsdale, AZ 85250

Berglund Insurance Agency
5602 W. Indian School Road
Phoenix, AZ 85018

22 
23

1 Application asks the applicant to "Write the name of the business from which you shall
2 be transacting insurance". Ms. Castaneda listed Berglund Insurance Agency
3 ("Berglund") in response to that question.

4 6. The evidence of record established that Ms. Castaneda has never worked for or in
5 any capacity been affiliated with Berglund.

6 7. Ms. Castaneda credibly testified that at the time she completed the Application and
7 the Renewal Application, she did not intend to work for Berglund and had never
8 contacted Berglund concerning the prospect of employment with that agency.

9 8. Ms. Castaneda completed the Application and Renewal Application in the manner
10 as set forth above on the advice of her husband, Franco Castaneda, who is licensed as
11 an insurance agent in the State of Arizona.

12 9. Section II of the Renewal Application asks the applicant to "List the EXACT, FULL
13 NAMES of all Arizona-admitted insurance companies (Carriers) you are authorized to
14 represent subject to issuance of the license for which you are applying (A.R.S. 20-
15 291(E)." In response to that question, Ms. Castaneda listed Met Life, Jackson National
16 and Kemper Mutual.

17 10. Ms. Castaneda never represented and was never authorized to represent
18 Metropolitan life Insurance Company ("Met Life"), Jackson National Life Insurance
19 Company ("Jackson National") or Zurich Kemper Life ("Kemper Mutual").

21 CONCLUSIONS OF LAW

22 1. Ms. Castaneda's conduct as set forth above, constitutes a willful violation of, or
23 noncompliance with, any provision of Arizona Revised Statutes, Title 20, within the
24 meaning of A.R.S. §20-316(A)(2).

25 2. Ms. Castaneda's conduct as set froth above, constitutes a misrepresentation or
26 fraud in obtaining or attempting to obtain any insurance license, within the meaning of
27 A.R.S. §20-316(A)(3).


28 3. Based on the above, grounds exist for the Director of the Department (the "Director")
29 to suspend, revoke or refuse to renew Ms. Castaneda's insurance license, or impose a
30

1 civil penalty, pursuant to A.R.S. §§ 20-316(A) and 20-316(C).

2 **RECOMMENDED ORDER**

3 It is recommended that the Director revoke all insurance licenses issued by the
4 Department to Diana Castaneda.

5 Done this day, July 9, 1998.

6 
7 _____
8 Lewis D. Kowal
9 Administrative Law Judge

10 Original transmitted by mail this
11 10 day of July, 1998, to:

12 Mr. John A. Greene, Director
13 Department of Insurance
14 2910 North 44th Street, Ste. 210
15 Phoenix, AZ 85018

16 Attention: Curvey Burton

17
18
19 By 
20 _____