

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

APR 16 1996

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In the Matter of:	)	Docket No. 96A-004-INS
ERNESTO H. KIRKER,	)	
	)	
Applicant.	)	ORDER
	)	
	)	

On April 11, 1996, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal submitted "Recommended Findings of Fact, Conclusions of Law and Recommended Order", a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the recommendation, and enters the following order:

1. The recommended findings of fact and conclusions of law are adopted.
2. Applicant Ernesto H. Kirker's application for an individual property and casualty insurance agent license submitted on November 21, 1995 to the Arizona Department of Insurance is denied.

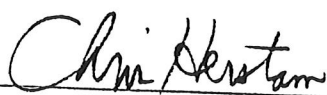
NOTIFICATION OF RIGHTS

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).

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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.

EFFECTIVE this 16th day of April, 1996

  
Chris Herstam  
Director of Insurance

A copy of the foregoing mailed this 16th day of April, 1996

Charles R. Cohen, Deputy Director  
Gregory Y. Harris, Executive Assistant Director  
John Gagne, Assistant Director  
Maureen Catalioto, Supervisor  
Department of Insurance  
2910 N. 44th St., Suite 210  
Phoenix, AZ 85018

Kathryn Leonard  
Assistant Attorney General  
1275 West Washington  
Phoenix, AZ 85007

Ernesto H. Kirker  
7607 N. 48th Avenue  
Glendale, AZ 85301



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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of

ERNESTO H. KIRKER,

Applicant.

No. 96A-004-INS

RECOMMENDED FINDINGS OF  
FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER

10 On April 4, 1996, a hearing took place in the above-referenced matter.  
11 Assistant Attorney General Kathryn Leonard appeared on behalf of the Arizona  
12 Department of Insurance ("Department"). Applicant Ernesto H. Kirker ("Mr. Kirker")  
13 did not appear at the hearing.

14 Based upon the entire record, including all pleadings, motions, testimony, and  
15 exhibits, Administrative Law Judge Lewis D. Kowal prepared the following  
16 Recommended Findings of Fact, Conclusions of Law, and Recommended Order for  
17 consideration by the Director of the Department ("Director").

18 FINDINGS OF FACT

- 19 1. On November 21, 1995, Mr. Kirker submitted an application for an  
20 individual property and casualty insurance agent license (the "Application") to the  
21 Department. Mr. Kirker was issued a conditional license in connection with the  
22 Application upon his execution of an Agreement for Conditional License.
- 23 2. On January 11, 1993, in United States of America v. Ernesto Herrera  
24 Kirker, CR92-395-01, Mr. Kirker entered a guilty plea as to one count Information and  
25 was convicted of Bank Larceny in violation of Title 18 U.S.C. Section 2113(b), a  
26 felony.
- 27 3. In the Application, Mr. Kirker disclosed his conviction in CR92-345-001  
28 (sic) of violating 18 U.S.C. Section 2113(b), Bank Larceny as well as the plea  
29 agreement and terms of probation.
- 30 4. On December 28, 1995, the Department denied the Application.
- 31 5. On January 18, 1996, the Applicant timely filed a demand for hearing  
32 concerning this matter.
- 33 6. The Applicant did not present any evidence at the hearing.
- 34

1 CONCLUSIONS OF LAW

2 1. Mr. Kirker received notice of this proceeding as prescribed by A.R.S.  
3 §§20-163 and 41-1061.

4 2. The Director has jurisdiction over this matter pursuant to A.R.S.  
5 §§20-161 and 20-290.

6 3. Mr. Kirker's conduct as described above in the Findings of Fact  
7 constitutes a record of dishonesty in business or financial matters in violation of  
8 A.R.S. §20-290(B)(2).

9 4. Mr. Kirker's conduct as described above in the Findings of Fact  
10 constitutes a record of conviction by final judgment of a felony involving moral  
11 turpitude within the meaning of A.R.S. §20-290(B)(6).

12 5. Grounds exist for the Director of the Department to refuse to accept the  
13 Application or issue any licenses pursuant to A.R.S. §20-290(B).

14 RECOMMENDED ORDER

15 Based upon the above, the undersigned Administrative Law Judge  
16 recommends that Applicant Ernesto H. Kirker's application for an individual property  
17 and casualty insurance agent license submitted on November 21, 1995 to the  
18 Arizona Department of Insurance be denied.

19 DATED this 11<sup>th</sup> day of April, 1996.

21 OFFICE OF ADMINISTRATIVE HEARINGS

22  
23  
24 Lewis D. Kowal  
25 LEWIS D. KOWAL  
26 Administrative Law Judge

27 COPY of the foregoing mailed/delivered  
28 this 11<sup>th</sup> day of April, 1996, to:

29 Chris Herstam, Director  
30 Arizona Department of Insurance  
31 2910 N. 44th St., Suite 210  
32 Phoenix, AZ 85018

33 Chris Crawford  
34 Chris Crawford

Office of Administrative Hearings  
1700 West Washington, Suite 244  
Phoenix, Arizona 85007  
(602)-542-9826