

OCT 22 2015

DEPT OF INSURANCE
BY MS

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

No. 15A-113-INS

DENMAN, TAMIKA,

ORDER

Petitioner.

On October 21, 2015, the Office of Administrative Hearings, through Administrative Law Judge Thomas Shedden, issued an Administrative Law Judge Decision ("Recommended Decision"), received by the Director of the Department of Insurance ("Director") on October 21, 2015, 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:

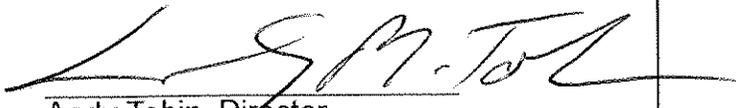
1. The Director adopts the Recommended Findings of Fact and Conclusions of Law.
2. The Director denies Tamika Denman's application for an Arizona insurance producer license.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filling a written motion with the Director of the Department of Insurance within 30 days of the date of this Order, setting forth the basis for relief under A.A.C. 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 Superior Court.

1 Petitioner 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
4 the complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

5 DATED this 22 day of October, 2015.

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8 Andy Tobin, Director
9 Arizona Department of Insurance
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12 COPY of the foregoing mailed this
13 22nd day of October, 2015, to:

14 Tamika Denman
15 13430 N. Black Canyon Hwy., Suite 290
16 Phoenix, Arizona 85029
17 Petitioner

18 Tamika Denman
19 8808 N. Black Canyon Hwy.
20 Phoenix, Arizona 85029
21 Petitioner

22 Tamika Denman
23 P.O. Box 7133
24 Goodyear, Arizona 85338
25 Petitioner

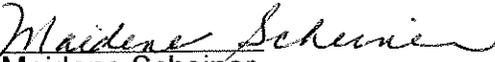
26 Mary Kosinski, Executive Assistant for Regulatory Affairs
Darren Ellingson, Deputy Director
Yvonne Hunter, Consumer Affairs Assistant Director
Catherine O'Neil, Consumer Legal Affairs Officer
Steven Fromholtz, Licensing Director
Barbara Beltran, Business Office
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

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

2 Liane Kido
3 Assistant Attorney General
4 Consumer@azag.gov
5 Attorney for the Department of Insurance

6 **COPY** with of the foregoing delivered electronically
7 this 22nd day of October, 2015, to:

8 ALJ Thomas Shedden
9 Office of Administrative Hearings

10 
11 Maidene Scheiner

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RECEIVED

OCT 21 2015

AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Insurance License
Denial of:

No. 15A-113-INS

DENMAN, TAMIKA,

ADMINISTRATIVE LAW JUDGE

Petitioner

DECISION

HEARING: October 19, 2015

APPEARANCES: Tamika Denman on her own behalf; Liane Kido, Esq. for the
Department of Insurance

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

1. On September 11, 2015, the Arizona Department of Insurance ("Department") issued a Notice of Hearing setting the above-captioned matter for hearing on October 19, 2015, at the Office of Administrative Hearings in Phoenix, Arizona.

2. Petitioner Tamika Denman appeared and testified on her own behalf. The Department presented the testimony of Steven Fromholtz, its Licensing Supervisor.

3. On July 20, 2015, Ms. Denman filed with the Department an application for an insurance producer's license.

4. In her application, Ms. Denman disclosed that in she had been convicted of a felony.

5. In February 1999, Ms. Denman pleaded guilty to Attempted Fraudulent Schemes and to three counts of Forgery, which are felonies.¹

6. Ms. Denman was sentenced to two month in jail, and was placed on probation and ordered to pay restitution of \$46,944.77.

¹ At the time of the convictions, Ms. Denman was using a number of aliases, but she is referred to as Ms. Denman throughout this Decision.

1 7. In a Probation Violation Report filed in Maricopa County Superior Court on
2 February 15, 2006, Ms. Denman's probation officer wrote that Ms. Denman had failed
3 to make regular restitution payments, had failed to report as directed, had refused to
4 attend financial compliance classes as ordered, had admitted to driving while her
5 license was suspended, had made false statements about her name to deputy officers,
6 had become argumentative during a routine search that then revealed she had failed to
7 disclose bobby-pins in her hair extensions, and had demonstrated an overall lack of
8 regard for Court officials or law enforcement personnel.

9 8. The Probation Violation Report also shows that at the time of the crimes
10 for which she was convicted, Ms. Denman had created an extensive network of false
11 identities involving victim information obtained from a former employee.

12 9. In an Order dated February 15, 2006, among other things, Ms. Denman
13 was sentenced to two months incarceration for her probation violations.

14 10. Through an Order dated January 19, 2007, Ms. Denman was discharged
15 from probation. On that same date however, a Criminal Restitution Order was entered
16 showing that Ms. Denman still owed \$40,399.27 and that she owed a delinquent fee of
17 \$1240.00. Mr. Fromholtz testified that the Criminal Restitution Order was still in effect
18 as of the hearing date.

19 11. Mr. Fromholtz provided credible testimony to the effect that Ms. Denman's
20 convictions directly correlate to the work that a licensee of the Department would
21 undertake. Insurance producers have access to customers' personal data and the
22 Department was concerned that Ms. Denman might use that personal information as
23 she did when she committed her crimes.

24 12. The Department was also concerned about Ms. Denman's unwillingness
25 to comply with the terms of her probation because a licensee is required to abide by the
26 Department's authority.

27 13. Ms. Denman testified as to her opinion that the crimes she committed
28 were far enough in the past that these should not preclude her from obtaining a license.
29 She also testified that the Probation Violation Report did not show that she had
30 attended some financial compliance classes and she stressed that the 2006 jail

1 sentence did not result from new crimes, but was the result only of her probation
2 violations.

3 14. Ms. Denman also testified that since her convictions she has held a
4 number of jobs in which she had access to customers' personal information, but none
5 of that information had been compromised.

6 CONCLUSIONS OF LAW

7 1. Ms. Denman bears the burden of persuasion. See ARIZ. REV. STAT. § 41-
8 1092.07(G)(1).

9 2. The standard of proof on all issues in this matter is that of a
10 preponderance of the evidence. ARIZ. ADMIN. CODE § R2-19-119.

11 3. A preponderance of the evidence is:

12 The greater weight of the evidence, not necessarily
13 established by the greater number of witnesses testifying to a
14 fact but by evidence that has the most convincing force;
15 superior evidentiary weight that, though not sufficient to free
16 the mind wholly from all reasonable doubt, is still sufficient to
17 incline a fair and impartial mind to one side of the issue rather
18 than the other.

19 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

20 4. The preponderance of the evidence shows that Ms. Denman has been
21 convicted of Attempted Fraudulent Schemes and to three counts of Forgery, which are
22 felonies. Consequently, the Department's Director has discretion to deny Ms. Denman's
23 application based on ARIZ. REV. STAT. section 20-295(A)(6).

24 5. Ms. Denman has failed to demonstrate by a preponderance of the
25 evidence that the Department's decision to deny her application should be overturned.²

26 6. Ms. Denman's appeal should be dismissed.

27 ORDER

28 **IT IS ORDERED** that Tamika Denman's appeal is dismissed.

29 ² It is not possible in the abstract to say what would be required for Ms. Denman to show that the
30 Department's decision to deny her application should be overturned, but Ms. Denman's offenses directly
correlate to the work that an insurance producer would undertake and she did not present any witnesses

1 *In the event of certification of the Administrative Law Judge Decision by the Director of*
2 *the Office of Administrative Hearings, the effective date of the Order is five days after*
3 *the date of that certification.*

4 Done this day, October 21, 2015.

5
6 /s/ Thomas Shedden
7 Thomas Shedden
8 Administrative Law Judge
9

10 Transmitted electronically to:

11 Darren Ellingson, Deputy Director
12 Arizona Department of Insurance
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29 _____
30 to show that she has been rehabilitated or to speak to her current character and reputation for
trustworthiness.