

DEC 07 2015

DEPT OF INSURANCE
BY MEK

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:

DENMAN, TAMIKA,

Petitioner.

No. 15A-113-INS

**ORDER DENYING REQUEST
FOR REHEARING**

FINDINGS OF FACT

1. On September 14, 2015, the Department of Insurance ("Department") filed a Notice of Hearing In the Matter of Denman, Tamika, Docket No. 15A-113-INS ("Docket No. 15A-113-INS") setting a hearing for October 19, 2015.

2. On October 19, 2015, the Office of Administrative Hearing ("OAH") conducted a hearing in Docket No. 15A-113-INS.

5. On or about October 21, 2015, the Administrative Law Judge ("ALJ") issued an Administrative Law Judge Decision ("ALJ's Decision"), received by the Director on that same date. (Exhibit A.)

6. On October 22, 2015, the Director filed an Order adopting the ALJ's Decision and denying Petitioner's application for an Arizona insurance producer license. (Exhibit B without ALJ's Decision attached.)

7. On November 20, 2015, Petitioner timely filed a request with the Department for a rehearing pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09. (Exhibit C.)

8. On December 4, 2015, the Department filed the Department's Response to Request for Rehearing. (Exhibit D.)

CONCLUSIONS OF LAW

1. Petitioner timely filed her Motion for Rehearing. A.A.C. R20-6-114(A).

2. The Department timely filed its Response to Motion for Rehearing. A.A.C. R20-6-115.

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3. Notice to Petitioner was proper.

4. A.A.C. R20-6-114(B) authorizes the Director to grant a rehearing or review only if Petitioner establishes one or more of the following grounds which have materially affected Petitioner's rights:

- 1. Irregularity in the hearing proceedings, or any order or abuse of discretion whereby the party seeking rehearing or review was deprived of a fair hearing;
- 2. Misconduct by the Director, the hearing officer or any party to the hearing;
- 3. Accident or surprise which could not have been prevented by ordinary prudence;
- 4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the hearing;
- 5. Excessive or insufficient sanctions or penalties imposed;
- 6. Error in the admission or rejection of evidence, or errors of law occurring at the hearing or during the course of the hearing;
- 7. Bias or prejudice of the Director or hearing officer;
- 8. That the order, decision, or findings of fact are not justified by the evidence or are contrary to law.

5. The Director has reviewed Petitioner's Motion for Rehearing and the Department's Response to Motion for Rehearing and finds that Petitioner has failed to establish a ground upon which to grant a rehearing or review pursuant to A.A.C. R20-6-114.

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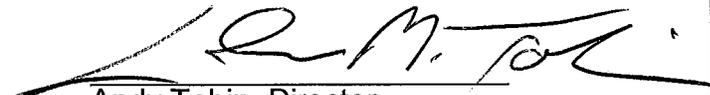
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ORDER

IT IS ORDERED:

1. Petitioner's request is denied.

DATED this 7th day of December, 2015.



Andy Tobin, Director
Arizona Department of Insurance

COPY with exhibits of the foregoing delivered electronically
this 8th day of December, 2015, to:

ALJ Thomas Shedden
Office of Administrative Hearings

COPY with exhibits mailed same date by Regular Mail
and Certified Mail, Return Receipt Requested, to:

Tamika Denman
13430 N. Black Canyon Hwy., Suite 290
Phoenix, Arizona 85029
Petitioner

Tamika Denman
8808 N. Black Canyon Hwy.
Phoenix, Arizona 85029
Petitioner

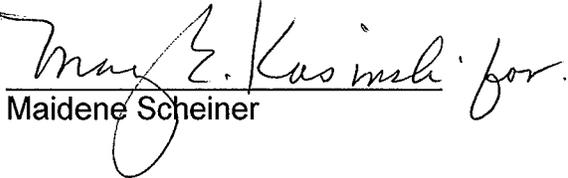
Tamika Denman
P.O. Box 7133
Goodyear, Arizona 85338
Petitioner

COPY of the foregoing delivered same date (without exhibits) to:

Mary Kosinski, Executive Assistant for Regulatory Affairs
Steven Fromholtz, Licensing Supervisor
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

1 **COPY** sent same date via electronic mail (without exhibits) to:

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

6  for.
7 Maidene Scheiner

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Exhibit A

Docket No. 15A-113-INS

RECEIVED

OCT 21 2015

AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

1 IN THE OFFICE OF ADMINISTRATIVE HEARINGS

2
3 In the Matter of the Insurance License
4 Denial of:

No. 15A-113-INS

5 DENMAN, TAMIKA,

ADMINISTRATIVE LAW JUDGE

6 Petitioner

7 DECISION

8
9 **HEARING:** October 19, 2015

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

12 **ADMINISTRATIVE LAW JUDGE:** Thomas Shedden

13
14 **FINDINGS OF FACT**

15
16 1. On September 11, 2015, the Arizona Department of Insurance
17 ("Department") issued a Notice of Hearing setting the above-captioned matter for
18 hearing on October 19, 2015, at the Office of Administrative Hearings in Phoenix,
19 Arizona.

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

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

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

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

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

30
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.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-8828

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 § R2-10-119.

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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30 to show that she has been rehabilitated or to speak to her current character and reputation for
trustworthiness.

Exhibit B

Docket No. 15A-113-INS

STATE OF ARIZONA
FILED

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 filing 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.

6
7 
8 Andy Tobin, Director
9 Arizona Department of Insurance

10
11
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
27 Darren Ellingson, Deputy Director
28 Yvonne Hunter, Consumer Affairs Assistant Director
29 Catherine O'Neil, Consumer Legal Affairs Officer
30 Steven Fromholtz, Licensing Director
31 Barbara Beltran, Business Office
32 Arizona Department of Insurance
33 2910 North 44th Street, Suite 210
34 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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Exhibit C

Docket No. 15A-113-INS

MR. Andy Tobin

NOV 20 2015

AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

ISA 113-INS

Motion for a Rehearing with the
Director of the Department of Insurance

November 19, 2015

To The Director of the Department of Insurance

My name is Samika Suman Case # ISA-113-INS

The purpose of this letter is to Request a Rehearing
of a Decision that was made on October 22, 2015
I feel that the Decision to Dismiss my Application
was not only unfair but it was harsh and excessive.

Although, the evidence that was presented in this
Case was based on separate Circumstances. However,
after 17 yrs of not having any other crimes; convictions
OR violations in respect to others should have been
carefully considered as well as reviewed with the
accomplishment that I've made to improve and
better my life. For an example during these proceedings
I submitted a copy of my Resume showing "years" of
accomplishments as well as prominent Companies who given
me ample of opportunities to show my skills and experiences
But most importantly their trust knowing my history. As
I mentioned on several occasions during these proceedings
that one company I've worked for for the past 17 yrs
would say that I've compromised their clients;
Security or broke the Law in any way. I also feel
that the State of Arizona Department of Insurance failed
to consider that I also took many steps to change
my life as well as improve my level of Education; growth
and finance's in order to establish and become a
Respected member of society as well as being firmly established
as a healthcare agent; Resource and experienced

in a diversified field of Healthcare services. However, as I also stated and mentioned during these proceedings how I never minimize what I have done but I was very open and receptive to what their concerns were as well as offering anyone all additional information to show and prove myself trustworthy; safe and secure knowing I have already affected and impacted many lives directly in the healthcare field as well as educated; assisted and changed many clients healthcare needs and receiving many accommodations for recognition of a job well done during my employment. However, it is unfortunate that the Department of Insurance used this opportunity to defame my character and exploit my criminal record by posting it on the internet and entitled it as a show piece for the world to see. Although I never expected such unprofessionalism to come from a Division of the State of Arizona who haven't posted other people who have been denied by the state and whom also had a criminal record on the internet. However, I feel that with such behavior that is unbecoming from state officials should be investigated as well as held accountable for such behavior that wasn't justifiable. Also, I will

I will be submitting the pictures of what I discovered before the hearing however in light of what has taken place I don't believe nor feel that I will be given a chance to have a license based on the actions that proceeded after the hearing. Also, as I mentioned during the hearing "why my case was any different from anyone else who had a criminal offense although it be obvious different is the criminal offense but I haven't made or had a career or life that many repeat offenders tend to make it there career however, I'm not clear as to why the exploitation of my criminal history was displayed as a "show piece" and special however, like myself and many other who have made mistakes in life took any and all steps to change their lives and rehabilitate themselves to be prominent members of society and successful in life in which I have become. However, I would greatly appreciate if I ^{can be} granted for returning to once again make a plan for an opportunity to help many with their healthcare needs as a choice as I already have but to also now help to improve quality of life to many who are not aware of their choices that they are entitled

15X-103-1045 (4)

to and should have the opportunity like millions of others who are benefiting from these healthcare providers as well as their death care needs. In closing I want to thank you in advance for your time and consideration and once again I look forward to seeing you soon.

Sincerely,
Amika Duman

STATE OF ARIZONA
FILED

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.

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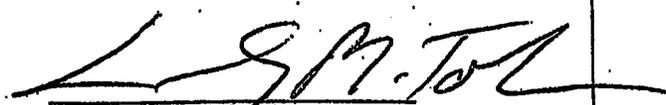
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8 Andy Tobin, Director
 Arizona Department of Insurance

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14 13430 N. Black Canyon Hwy., Suite 290
 Phoenix, Arizona 85029
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16 Tamika Denman
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20 P.O. Box 7133
 Goodyear, Arizona 85338
 Petitioner

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25 2910 North 44th Street, Suite 210
 Phoenix, Arizona 85018
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2 Liane Kido
3 Assistant Attorney General
4 Consumer@azag.gov
Attorney for the Department of Insurance

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

7 ALJ Thomas Shedden
8 Office of Administrative Hearings

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11 Maidene Scheiner

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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,

Petitioner

ADMINISTRATIVE LAW JUDGE

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.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-9826

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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30 to show that she has been rehabilitated or to speak to her current character and reputation for
trustworthiness.

Exhibit D

Docket No. 15A-113-INS

RECEIVED
DEC 04 2015
AZ DEPT. OF INSURANCE
ADMINISTRATIVE SERVICES

1 MARK BRNOVICH
2 Attorney General
3 Firm Bar No. 14000

3 Liane C. Kido
4 Assistant Attorney General
5 State Bar No. #023696
6 1275 West Washington Street
7 Phoenix, Arizona 85007-2926
8 Telephone: (602) 542-8011
9 Facsimile: (602) 542-4377
10 Attorneys for Department of Insurance

8 **BEFORE THE ARIZONA DEPARTMENT OF INSURANCE**

10 In the Matter of:

11 **DENMAN, TAMIKA,**

12 Petitioner.

No. 15A-113-INS

**DEPARTMENT'S RESPONSE TO
REQUEST FOR RE-HEARING**

14 The Arizona Department of Insurance ("Department"), by and through undersigned
15 counsel, hereby responds to Tamika Denman's ("Denman") Motion for a Rehearing
16 ("Request for Rehearing"). The Department requests that Denman's motion be denied. This
17 Response is supported by the following Memorandum of Points and Authorities.

18 DATED this 4th day of December, 2015.

19 MARK BRNOVICH, Attorney General

20 BY: /s/ Liane C. Kido
21 Liane C. Kido
22 Assistant Attorney General
23 Consumer Protection and Advocacy Department
24 Attorneys for the Department
25
26

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF THE FACTS**

3 On July 20, 2015, Ms. Denman submitted an application for a resident Accident and
4 Health or Sickness Producer's license. In her application, Ms. Denman disclosed four (4)
5 convictions from 1999: one (1) count of Fraudulent Schemes, a class 3 felony, and three (3)
6 counts of Forgery, class 4 felonies.

7 The Department denied Ms. Denman's application for an insurance producer's
8 license.

9 Ms. Denman filed a timely appeal of the Department's decision.

10 On October 19, 2015, an administrative hearing was held on the matter. The
11 Administrative Law Judge ("ALJ") found that "...the Department's Director has discretion
12 to deny Ms. Denman's application...Ms. Denman has failed to demonstrate by a
13 preponderance of the evidence that the Department's decision to deny her application should
14 be overturned." See ¶4-5, page 3, Administrative Law Judge Decision¹.

15 On October 22, 2015, the Director's Order, *attached* as Exhibit A, was issued in this
16 matter. The Director adopted the Administrative Law Judge Decision and denied Ms.
17 Denman's application for an insurance producer's license.

18 On November 20, 2015, Ms. Denman submitted her Request for Rehearing.

19 **II. STATEMENT OF THE ISSUES**

20 Ms. Denman's Request for Rehearing appears to disagree with the weight given to the
21 amount of time since the commission of her crimes and her activities and employment since
22 her crimes.

23 //

24 //

25

26

¹ The Administrative Law Judge Decision is attached to the Director's Order, attached as Exhibit A.

1 **III. ARGUMENT**

2 **A. Respondent Failed to Demonstrate Any Grounds as a Basis for Granting a**
3 **Rehearing Under A.A.C. R20-6-114(B) and (C).**

4 The grounds for granting a rehearing or review are identified in Arizona
5 Administrative Code ("A.A.C.") R20-6-114(B). In addition, a motion for rehearing or review
6 must specify the grounds upon which the motion is based, and set forth specific facts and law
7 supporting rehearing or review according to A.A.C. R20-6-114(C).

8 A.A.C. R20-6-114(B) states:

9 A rehearing or review of the decision may be granted for any one of the
10 following causes that materially affect the moving party's rights:

- 11 1. Irregularity in the hearing proceedings or any order or abuse of
12 discretion whereby the party seeking rehearing or review was deprived of a fair
13 hearing;
- 13 2. Misconduct by the Director, the hearing officer, or any party to the
14 hearing;
- 14 3. Accident or surprise which could not have been prevented by
15 ordinary prudence;
- 15 4. Newly discovered material evidence which could not have been
16 discovered with reasonable diligence and produced at the hearing;
- 16 5. Excessive or insufficient sanctions or penalties imposed;
- 17 6. Error in the admission or rejection of evidence, or errors of law
17 occurring at the hearing or during the course of the hearing;
- 18 7. Bias or prejudice of the Director or hearing officer;
- 18 8. That the order, decision, or findings of fact are not supported by the
19 evidence or is contrary to law.

20 Ms. Denman, in her Request for Rehearing, fails to state any specific legal grounds
21 for rehearing, as required by A.A.C. R20-6-114(C). Accordingly, the Department will
22 address Ms. Denman's claims as an argument that the penalty imposed is excessive, pursuant
23 to A.A.C. R20-6-114(B)(5); and that the order, decision, or findings of fact are not justified
24 by the evidence or are contrary to law pursuant to A.A.C. R20-6-114(B)(8).

25 //

26 //

1 **B. The Denial of Ms. Denman's Application for Licensure Is Not Excessive.**

2 In her Request for Rehearing, Ms. Denman argues that the denial of her application
3 for an insurance producer's license as "harsh and excessive". Despite this argument, Ms.
4 Denman does not deny that she was convicted of four felonies. Pursuant to A.R.S. § 20-
5 295(A)(6), "A. The director may deny...an insurance producer's license...for any one or
6 more of the following causes: 6. Having been convicted of a felony." The statute clearly
7 states that "any one" felony conviction provides grounds for the denial of a license. In this
8 case, Ms. Denman has not one felony conviction, but four.

9 Further, the ALJ found that "Mr. Fromholtz provided credible testimony to the effect
10 that Ms. Denman's convictions directly correlate to the work that a licensee of the
11 Department would undertake." ¶11, page 2, Administrative Law Judge Decision.

12 The ALJ concluded, "[t]he preponderance of the evidence shows that Ms. Denman
13 has been convicted of Attempted Fraudulent Schemes and to three counts of Forgery, which
14 are felonies. Consequently, the Department's Director has discretion to deny Ms. Denman's
15 application based on Ariz. Rev. Stat. section 20-295(A)(6)." ¶4, page 3, Administrative Law
16 Judge Decision.

17 The denial of Ms. Denman's license was well within the range of penalties that the
18 director is authorized to impose. The denial of Ms. Denman's application for licensure is not
19 an excessive penalty.

20 **C. The Order, Decision, or Findings of Fact Are Justified by the Evidence**
21 **and Are Not Contrary to Law.**

22 In her Request for Rehearing, Ms. Denman argues that "the State of Arizona
23 Department of Insurance failed to consider how I also took many steps to change my life as
24 well as improve my level of education and growth and finance's [sic]..." Request for
25 Rehearing, page 1. Ms. Denman also argues that her work history and lack of additional
26 criminal convictions since 1999 were not given proper weight. *Id.*

1 The ALJ is not required to give any particular weight to any particular piece of
2 evidence. The trier of fact has the right to determine what weight and effect will be given any
3 particular evidence in the case. *State v. Allen*, 27 Ariz. App. 577, 581, 557 P.2d 176, 180
4 (App. 1976). The amount of consideration given to Ms. Denman's attempts at self-
5 improvement, the furtherance of her education and work history, falls squarely within the
6 ALJ's purview.

7 It is clear from the Administrative Law Judge Decision that the ALJ did consider
8 these factors. The Administrative Law Judge Decision specifically states:

9 13. Ms. Denman testified as to her opinion that the crimes she
10 committed were far enough in the past that these should not preclude her from
11 obtaining a license. She also testified that the Probation Violation Report did
12 not show that she had attended some financial compliance classes and she
13 stressed that the 2006 jail sentence did not result from new crimes, but was the
14 result only of her probation violations.

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

18 ¶13-14, pages 2-3, Administrative Law Judge Decision.

19 Despite weighing this evidence, the ALJ found that "Ms. Denman has failed to
20 demonstrate by a preponderance of evidence that the Department's decision to deny her
21 application should be overturned." ¶5, page 3, Administrative Law Judge Decision.

22 Ms. Denman's disagreement with how much weight was given to the evidence
23 presented at hearing is not grounds for a rehearing. The Department's Order was not
24 contrary to law. The Order was supported by the weight of the evidence and provided
25 grounds for the denial of Ms. Denman's license application.

26 IV. CONCLUSION

 Ms. Denman has not established the requisite grounds upon which rehearing may be
properly granted, pursuant to A.A.C. R20-6-114(B) and (C). A rehearing in this matter

1 would be inappropriate. Therefore, the Department respectfully requests that Ms. Denman's
2 Request for Rehearing be denied.

3 RESPECTFULLY SUBMITTED this 4th day of December, 2015.

4 MARK BRNOVICH, Attorney General

5
6 BY: /s/ Liane C. Kido
7 Liane C. Kido
8 Assistant Attorney General
9 Attorneys for the Department of Insurance

10 FILED via electronic mail this 4th
11 day of December, 2015, with:

12 Andy Tobin, Director
13 Arizona Department of Insurance

14 COPY of the foregoing mailed
15 same date to:

16 Tamika Denman
17 P.O. Box 7133
18 Goodyear, Arizona 85388
19 Petitioner

20 /s/ Teresa Carranza
21 4787578

22

23

24

25

26

STATE OF ARIZONA
FILED

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.

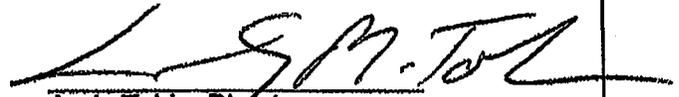
NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes ("A.R.S.") § 41-1092.09, Petitioner may request a rehearing with respect to this order by filing 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.

6
7 
8 Andy Tobin, Director
 Arizona Department of Insurance

9
10
11
12 COPY of the foregoing mailed this
 22nd day of October, 2015, to:

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

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

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

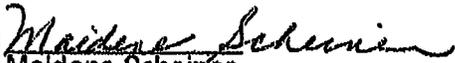
25 Mary Kosinski, Executive Assistant for Regulatory Affairs
26 Darren Ellingson, Deputy Director
 Yvonne Hunter, Consumer Affairs Assistant Director
 Catherine O'Neil, Consumer Legal Affairs Officer
 Steven Fromholtz, Licensing Director
 Barbara Beltran, Business Office
 Arizona Department of Insurance
 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 Maldene 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; Llane 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.

Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
(602) 542-8828

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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30 to show that she has been rehabilitated or to speak to her current character and reputation for
trustworthiness.