STATE OF ARIZONA
FILED

MAR 1 4 1996

DEPARTMENT OF INSURANCE
By

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:	)	Docket No. 96A-001-INS
JEFFREY GLEN SHARP,	)	ORDER
Applicant.	)	

On March 12, 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 findings of fact and recommendation, and enters the following order:

1. The recommended findings of fact and conclusions of law are adopted.

2. The application for an individual life and disability insurance agent license submitted on May 3, 1995 by Applicant Jeffrey Glen Sharp 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(E).

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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 13th day of March, 1996

Chris Herstam
Director of Insurance

A copy of the foregoing
mailed this 14th day of
~~January~~ March, 1996, to:

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 L. Leonard
Assistant Attorney General
1275 W. Washington
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Jeffrey Glen Sharp
5050 East 5th, #M14
Tucson, Arizona 85711

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Office of Administrative Hearings
~~DEPARTMENT OF INSURANCE~~
By

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of JEFFREY GLEN SHARP, Applicant.	No. 96A-001-INS RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER

On March 5, 1996, a hearing took place in the above-referenced matter. Assistant Attorney General Kathryn Leonard appeared on behalf of the Arizona Department of Insurance ("Department") and Applicant Jeffrey Glen Sharp ("Mr. Sharp") appeared on his own behalf.

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

FINDINGS OF FACT

1. On May 3, 1995, Mr. Sharp submitted an application for an individual life and disability insurance license (the "Application") with the Department. Mr. Sharp was issued a conditional license in connection with the Application upon his execution of an Agreement for Conditional License.

2. On December 28, 1995, the Director revoked the conditional license issued to Mr. Sharp and denied the Application.

3. On January 2, 1996, Mr. Sharp timely filed a demand for hearing concerning this matter.

4. Mr. Sharp answered "No" to question F(2) of the Application which asked, "Have you EVER been convicted of a felony?"

5. Mr. Sharp answered "No" to question F(3) of the Application which asked, "Have you EVER been arrested, questioned, served a criminal summons, taken into custody, charged with, tried for, or ever been the subject of an investigation concerning the violation of any felony or misdemeanor, or are any charges now pending against you?"

6. The notes and instructions to Section F of the Application provides in part that "A 'no' response is unacceptable and unjustifiable if you have had any

charge or conviction appealed, dismissed, expunged, pardoned, reversed, set aside or had your civil rights restored, had a plan withdrawn or had been given probation, a suspended sentence or a fine."

7. On June 18, 1987, Mr. Sharp was arrested in St. Louis County, Missouri and charged in CRR-565128 with a felony based upon allegations of stealing $150.00 or more.

8. On June 17, 1988, in CRR-565128, the Circuit Court of St. Louis County Missouri, Mr. Sharp pled guilty to a felony charge of stealing over $150.00 and was given a three-year suspended sentence with three years probation.

9. On September 26, 1989, Mr. Sharp was arrested in Tucson, Arizona on a failure to appear warrant issued in Missouri stemming from CRR-565128.

10. Mr. Sharp's probation was supervised by the Arizona Department of Corrections under the Inter-State Compact Unit from July 17, 1990 to August 5, 1991. Mr. Sharp received an early discharge from probation based on his successful compliance with the terms of probation.

11. In the Application, Mr. Sharp failed to reveal the above-mentioned conviction or arrests.

12. At the hearing, Mr. Sharp credibly testified that he did not read the Application thoroughly and believed that based upon information he received from legal counsel, there was no conviction for him to reveal on the Application. However, Mr. Sharp did not produce evidence that his legal counsel was familiar with the Department's application process or the application form. Notwithstanding Mr. Sharp's failure to disclose the criminal conviction in CRR-565128, Mr. Sharp also failed to disclose his arrests in 1987 in St. Louis County, Missouri, and in 1989 in Tucson, Arizona, which he credibly testified he recalled at the time he completed the Application.

13. Mr. Sharp credibly testified that the Application was his first application with a state regulatory agency and on all other job applications which asked whether he had been convicted of a felony, he has answered "No."

14. William Baskin, General Manager of Southern Arizona territory for Mutual of Omaha, credibly testified as a character witness on behalf of Mr. Sharp. Mr. Baskin testified that he supervises Mr. Sharp. While working at Mutual of Omaha, Mr. Baskin has found Mr. Sharp to have a high regard for the welfare of clients and has not had any disciplinary problems.

15. Mr. Baskin further credibly testified that in the job application for Mutual of Omaha, Mr. Sharp answered "No" to the question of whether Mr. Sharp had been convicted of a felony. Mr. Baskin learned of Mr. Sharp's criminal background from Mr. Sharp after Mr. Sharp received the Department's denial letter of December 28, 1995.

16. Mr. Sharp did not answer questions F(2) and F(3) of the Application correctly and admitted this at the hearing.

CONCLUSIONS OF LAW

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

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

3. The Director may refuse to issue Mr. Sharp an insurance license if, after hearing, the Director finds that Mr. Sharp's above-mentioned conduct constitutes a material misrepresentation or fraud in the application for or attempt to obtain, any insurance license pursuant to A.R.S. §20-290(B)(1).

4. Mr. Sharp's conduct as described above in the Findings of Fact, constitutes a material misrepresentation in the application for, or attempt to obtain any insurance license within the meaning of A.R.S. §20-290(B)(1).

RECOMMENDED ORDER

Based upon the above, the undersigned Administrative Law Judge recommends that the application for an individual life and disability insurance agent license submitted on May 3, 1995 by Applicant Jeffrey Glen Sharp to the Arizona Department of Insurance be denied.

DATED this 12th day of March, 1996.

OFFICE OF ADMINISTRATIVE HEARINGS

Lewis D. Kowal

LEWIS D. KOWAL
Administrative Law Judge

COPY of the foregoing mailed/delivered
this 12th day of March, 1996, to:

Chris Herstam, Director
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, AZ 85018

Chris Crawford

Chris Crawford