STATE OF ARIZONA
FILED

JAN 3 1997

DEPT. OF INSURANCE
BY Kathy

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:	)	Docket No. 96A-181-INS
	)	
HUMBERTO ALONSO ASTORGA,	)	**ORDER**
	)	
Applicant.	)	
	)	
	)	

On December 30, 1996, the Office of Administrative Hearings, through Administrative Law Judge Richard N. Blair, submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Office of Administrative Hearings has reviewed the Recommended Decision and enters the following order:

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

2. The applications for an individual life and disability insurance agent license and for an individual property and casualty insurance agent license submitted on June 26, 1995, by Humberto Alonso Astorga 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).

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 3rd day of January, 1997

John King
Director of Insurance

A copy of the foregoing mailed
this 3rd day of January, 1997

Charles R. Cohen, Deputy Director
Catherine O'Neil, Assistant Director
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Springfield, MO 65899-0001

Kathy Lindsey

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:	No. 96A-181-INS
HUMBERTO ALONSO ASTORGA, Applicant.	**RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE**

HEARING: December 23, 1996

APPEARANCES: Assistant Attorney General Kathryn Leonard appeared on behalf of the Arizona Department of Insurance; Humberto Alonso Astorga did not appear at the hearing.

ADMINISTRATIVE LAW JUDGE: Richard N. Blair

Based upon the entire record, the following recommended Findings of Fact, Conclusions of Law, and Recommended Order are made:

FINDINGS OF FACT

1. On June 26, 1995, Humberto Alonso Astorga ("Mr. Astorga") submitted an application for an individual property and casualty insurance agent license and for an individual life and disability agent license (the "Applications") to the Arizona Department of Insurance ("the "Department") and was issued a conditional license in connection with the Applications upon Mr. Astorga's execution of an Agreement for Conditional License.

2. Mr. Astorga answered "NO" to Question F(1) of the Applications which asks: "Have you EVER been convicted of a misdemeanor?"

3. Mr. Astorga answered "NO" to Question F(3) of the Applications which asks: "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?"

4. On September 16, 1996, the Department denied Mr. Astorga's Applications and revoked his conditional license.

5. On September 27, 1996, Mr. Astorga timely filed with the Department a demand for hearing concerning this matter.

6. On October 26, 1990, Mr. Astorga was charged with Disorderly Conduct in violation of A.R.S. § 13-2904 and 13-3601, Complaint No. 2218819; and Domestic Violence Assault in violation of A.R.S. § 13-1203 and 13-3601, Complaint No. 2218820.

7. The evidence established that on October 26, 1990, Mr. Astorga was involved in a physical altercation with his cousin while attending a party in Tucson, Arizona and as a result of Mr. Astorga's involvement in that altercation the Tucson Police Department issued the criminal complaints set forth above in paragraph 6.

8. On December 3, 1990, Mr. Astorga pleaded guilty to Domestic Violence Assault, a misdemeanor, in State of Arizona v. Humberto Astorga, Tucson City Court, Docket No. 9093320 ("Docket No. 9093320"). The Court entered judgment against Mr. Astorga on December 3, 1990, and placed Mr. Astorga on six months unsupervised probation. As a condition to Mr. Astorga's probation, the Court ordered Mr. Astorga to participate in a diversion program. The Court dismissed the charge of Disorderly Conduct in Complaint No. 2218819.

9. Mr. Astorga did not disclose on the Applications that criminal complaints were filed against him in Complaint Nos. 2218819 and 2218820, or that he was convicted of misdemeanor assault in Docket No. 9093320.

10. On August 8, 1996, Mr. Astorga submitted a renewal application to the Department to renew his property and casualty insurance agent license (the "Renewal Application"). However, no renewal application was required to be filed because Mr. Astorga was operating under the conditional license issued by the Department at the time that Mr. Astorga submitted the Renewal Application.

11. In the Renewal Application Mr. Astorga disclosed that he had been convicted of a misdemeanor in Docket No. 9093320 and provided the Department with certified court records from the Tucson City Court.

12. Mr. Astorga did not attend the hearing and therefore presented no supporting evidence or evidence in mitigation.

CONCLUSIONS OF LAW

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

2. The failure of Mr. Astorga to answer questions F(1) and F(3) on the Applications in the affirmative is 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).

3. Pursuant to A.R.S. § 20-290(B)(1), the Director may refuse to issue a license to Mr. Astorga if the director finds that Mr. Astorga made a material misrepresentation or committed fraud in the application for, or attempt to obtain, any insurance license.

4. The Department presented insufficient evidence to establish a violation of A.R.S. § 20-291(G).

5. Mr. Astorga presented no evidence to sustain his burden of proof that the Applications should be granted.

RECOMMENDED ORDER

Based on the foregoing, it is recommended that the applications for an individual life and disability insurance agent license and for an individual property and casualty insurance agent license submitted on June 26, 1995, by Humberto Alonso Astorga to the Arizona Department of Insurance be denied.

Done this day, December 30, 1996.

Richard N. Blair
Administrative Law Judge

Original transmitted by mail this
31 day of December, 1996, to:

John King, Director
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Department of Insurance
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Phoenix, AZ 85018-7256

By Chris Crawford