

JAN 3 1997

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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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).

1 The final decision of the Director may be appealed to the Superior Court of Maricopa
2 County for judicial review pursuant to A.R.S. § 20-166.

3 EFFECTIVE this 3rd day of January, 1997

4
5 
6 John King
Director of Insurance

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

9 Charles R. Cohen, Deputy Director
10 Catherine O'Neil, Assistant Director
11 John Gagne, Assistant Director
12 Maureen Catalioto, Supervisor
13 Arizona Department of Insurance
14 2910 N. 44th Street, Suite 210
15 Phoenix, AZ 85018

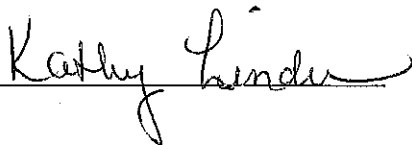
16 Office of Administrative Hearings
17 1700 West Washington, Suite 602
18 Phoenix, AZ 85007

19 Kathryn Leonard
20 Assistant Attorney General
21 1275 West Washington
22 Phoenix, AZ 85012

23 Humberto A. Astorga
1177 W. Papago Place
Nogales, AZ 85621

American National Insurance Company
One Moody Plaza
Galveston, TX 77550-7999

American National Property and Casualty Company
1949 East Sunshine, Corporate Center
Springfield, MO 65899-0001



1 concerning the violation of any felony or misdemeanor, or are any charges now pending
2 against you?"

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

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

7 6. On October 26, 1990, Mr. Astorga was charged with Disorderly Conduct
8 in violation of A.R.S. § 13-2904 and 13-3601, Complaint No. 2218819; and Domestic
9 Violence Assault in violation of A.R.S. § 13-1203 and 13-3601, Complaint No.
10 2218820.

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

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

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

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

1 Original transmitted by mail this
2 31 day of December, 1996, to:

3 John King, Director
4 ATTN: Curvey Burton
5 Department of Insurance
6 2910 North 44th Street, #210
7 Phoenix, AZ 85018-7256

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9 By Chris Crawford

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