STATE OF ARIZONA
FILED

APR 25 1997

DEPT. OF INSURANCE
BY

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:	)	Docket No. 97A-004-INS
	)	
DEBORAH J. BAGGETT	)	**ORDER**
	)	
Respondent.	)	
	)	
	)	

On February 24, 1997, the Office of Administration, through Administrative Law Judge Lewis D. Kowal, transmitted a "Recommended Decision of Administrative Law Judge" (the "Recommended Decision"), a copy of which is attached and incorporated by this reference. Pursuant to A.R.S. §41-1092.08(B), the Director of the Arizona Department of Insurance declines to review the Recommended Decision. Therefore, pursuant to A.R.S. §41-1092.08(D)(1), the Recommended Decision is the final administrative decision.

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. A party filing an appeal must notify the Office

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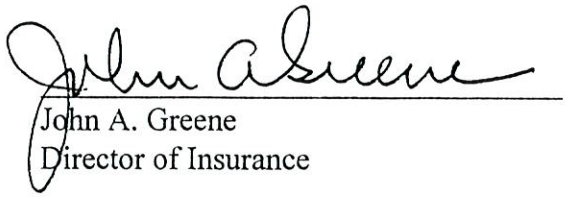
. . . .

of Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal, pursuant to A.R.S. §41-1092.10.

DATED this 25 day of April, 1997.



John A. Greene
Director of Insurance

A copy of the foregoing mailed
this 25th day of April, 1997

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:	No. 97A-004-INS
DEBORAH J. BAGGETT,	RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE
Petitioner	

HEARING: February 4, 1997

APPEARANCES: Deborah J. Baggett appeared on her own behalf and Assistant Attorney General Michael J. De La Cruz appeared on behalf of the Arizona Department of Insurance

ADMINISTRATIVE LAW JUDGE: Lewis D. Kowal

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

FINDINGS OF FACT

1. On October 22, 1996, Deborah J. Baggett ("Ms. Baggett") filed an application for a property and casualty agent's license ("the Application") with the Arizona Department of Insurance ("the Department") and was issued a conditional license in connection with that application upon her execution of an Agreement for Conditional License.

2. Ms. Baggett answered "Yes" to Section V ,Question A of the Application which asked "Have you EVER been convicted of a misdemeanor?"

3. Ms. Baggett answered "Yes" to Section V, Question, B of the Application which asked "Have you EVER been convicted of a felony?"

4. Ms. Baggett attached to the Application an explanation and documents relating to her prior criminal convictions which are set forth below. At all times material to this matter Ms. Baggett was also known as Deborah Coleman, Debra Coleman, Debi Mullins and Deborah Ruth.

5. On November 20, 1985, the Superior Court, Floyd County, Georgia, in the State v. Debra Coleman, Case No. 85-231-2 ("Case No. 85-231-2"), convicted Ms. Baggett for the offense of Bad Checks, a misdemeanor. The Court sentenced Ms. Baggett to confinement for 12 months. The Court further ordered that the sentence may be served on probation and imposed a $200.00 fine and ordered that restitution plus service charges be paid on the bad check.

6. On October 14, 1985, an Accusation was filed in Superior Court, Floyd County, Georgia, in the State v. Debi Mullins, Case No. 85-252-2 ("Case No. 85-252-2") charging Ms. Baggett on eleven counts for Bad Checks, all misdemeanors.

7. On November 22, 1985, Ms. Baggett was convicted in Case No. 85-252-2 of eleven counts for Bad Checks, all misdemeanors. Ms. Baggett was sentenced to 12 months confinement on each count which was to be concurrent with each other and consecutive to Case No. 85-231-2. The Court further ordered that the sentence may be served on probation and the terms of the probation included a fine of $200.00 on 9 counts and $400.00 on 2 counts and restitution plus service charges on the underlying bad checks.

8. On September 28, 1989, Ms. Baggett was convicted in Superior Court, Floyd County Georgia, in State v. Deborah Coleman AKA Deborah Ruth, Case No 89-F-8529-2 ("Case No. 89-F-8529-2") charging Ms. Baggett on counts I and II for Bad Checks, a felony. The Court sentenced Ms. Baggett to serve three years confinement on both counts, to be served consecutively. The Court further ordered that the sentence may be served on probation through Women's Out Service Program. Ms. Baggett was fined $250.00 on each count and ordered to pay restitution.

9. On November 29, 1996, the Department revoked Ms. Baggett's conditional license and denied the Application.

10. On December 5, 1996, Ms. Baggett timely filed a request for hearing on the denial of the Application.

11. Ms. Baggett admitted that at the time when she wrote the above-mentioned bad checks, she knew that her checking account did not contain sufficient funds for payment of those checks.

12. Ms. Baggett testified that she has successfully completed the terms of her probation in the above-mentioned cases, including the payment of restitution, and has not had any other criminal violations since 1989. Ms. Baggett testified that she received counseling and financial assistance through the Women's' Out Service Program.

13 Ms. Baggett affirmatively acknowledged the above-mentioned convictions and admitted that she made mistakes in her past but represented that she had changed and is not the same person as the one who committed those offenses.

14. In mitigation, Ms. Baggett provided information surrounding the circumstances which gave rise to the series of bad checks. At the age of 22, Ms Baggett's mother killed Ms. Baggett's father and Ms. Baggett was left the responsibility of taking care of her younger brother and sister. Additionally, Ms. Baggett was physically separated from her husband and had an infant to provide for. At that time, the only job Ms. Baggett could obtain was employment at McDonalds. That job did not provide her with enough money to maintain her household.

15. Ms. Baggett testified that other than the underlying two bad checks in Case No. 89-F-8529-2, the other bad checks were written for necessities. As to the two checks in Case No. 89-F-8529-2, Ms. Baggett testified that one check was written to cover her sister's obligation to pay for an automobile and the other check was written to provide payment for her brother's obligation. In both cases, she was acting as the older sister and assuming responsibility for her brother and sister. Although both had represented to her that she would be paid back, that did not occur.

16. Ms. Baggett testified that she and her husband own a hamburger restaurant and a convenience store in Ajo. Ms. Baggett hires employees who are on probation

with the hope that she can make a difference in their lives. Ms. Baggett also works part-time for Phillips Insurance Agency. From December 1995, through October 1996, Ms. Baggett worked full time for the Phillips Agency where she performed typing, filing, and handled the moneys received by the agency.

17. Ms. Baggett demonstrated that she has paid her debt to society for the above-mentioned criminal offenses and that she has become an active member of her community.

18. Ms. Baggett presented character letters from the pastor in the community, a client of the Phillips agency, her brother and a woman who worked with Ms. Baggett while she was on probation in Georgia. The individuals who authored those letters were not present at the hearing and counsel for the Department did not have an opportunity to cross-examine those individuals. Therefore, those letters were given very little weight.

19. Ms. Baggett was a sincere and credible witness and the Department did not present credible evidence to refute Ms. Baggett's testimony as set forth above.

CONCLUSIONS OF LAW

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

2. The conduct of Ms. Baggett as set forth above in the Findings of Fact constitutes a record of dishonesty on the part of Ms. Baggett in business or financial matters pursuant to A.R.S. §20-290 (B)(2).

3. Ms. Baggett's felony conviction in Case No. 89-F-8529-2 constitutes a record of conviction by final judgment of a felony involving moral turpitude within the meaning of A.R.S. §20-290 (B) (6).

4. Pursuant to A.R.S. §20-290 (B)(2) and 20-290(B)(6), the Director has discretionary authority to grant or deny the Application.

5. Notwithstanding the prior conduct and convictions of Ms. Baggett, Ms. Baggett sustained her burden of proof by establishing that she possesses the requisite

qualifications to be licensed by the Department as a property and casualty insurance agent.

RECOMMENDED ORDER

Under the particular facts and circumstances of this case and the evidence presented, including but not limited to the age of Ms. Baggett at the time of the criminal offenses, the duration of time that has elapsed and Ms. Baggett's employment history and involvement in her community since those offenses, the Administrative Law Judge recommends that Deborah J. Baggett's application for an individual property and casualty insurance agent license submitted to the Department on October 22, 1996 be granted.

Done this day, February 18, 1997.

Lewis D. Kowal
Administrative Law Judge

Original transmitted by mail this
19 day of February, 1997, to:

John A. Greene
Director
ATTN: Curvey Burton
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2910 North 44th Street, #210
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By