STATE OF ARIZONA FILED

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FEB 1 1 1997

2	DEPARTME	NT OF INSURANCE	DEPT. OF INSUHANCE	
3			British and Salahan	
4	In the Matter of:	Docket No. 96A-233-	INS	
5	JUDY C. MAYA,	ORDER		
6	Petitioner.	-		
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9	On January 14, 1997, the Office of Administrative Hearings, through Administrative Law			
10	Judge Allen W. Reed, submitted "Recommended Decision of Administrative Law Judge"			
11	("Recommended Decision"), a copy of which is attached and incorporated by this reference. The			
12	Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters			
13	the following order:			
14	1. The findings of fact and c	onclusions of law are adop	ted.	
15	2. The application for a life	and disability agent license	submitted by Judy C. Maya	
16	on September 16, 1996 shall be granted.			
17	NOTIFICATION OF RIGHTS			
18	The aggrieved party may request a rehearing with respect to this Order by filing a written			
19	petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth			
20	the basis for such relief pursuant to A.A.C. R20-6-114(B).			
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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 day of February, 1997		
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5	John aluene		
6	John A. Greene Director of Insurance		
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8	A copy of the foregoing mailed this \(\frac{1}{2} \) day of February, 1997		
9	Charles R. Cohen, Deputy Director John Gagne, Assistant Director		
10	Catherine O'Neil, Assistant Director Scott Greenberg, Business Administrator		
11	Maureen Catalioto, Supervisor Department of Insurance		
12	2910 N. 44th Street, Suite 210 Phoenix, AZ 85018		
13			
14	Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, AZ 85007		
15			
16	Michael J. De La Cruz Assistant Attorney General		
17	1275 West Washington Phoenix, AZ 85012		
18	Judy C. Maya		
19	16801 N. 49th Street, #127 Scottsdale, AZ 85254		
20	Karly hinder		
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 96A-233-INS

JUDY C. MAYA,

RECOMMENDED DECISION
OF ADMINISTRATIVE
LAW JUDGE

Petitioner.

HEARING: January 10, 1997

APPEARANCES:

Judy Maya, Applicant, in her own behalf

Michael De La Cruz, Assistant Attorney General, on behalf of the State

ADMINISTRATIVE LAW JUDGE: Allen W. Reed

FINDINGS OF FACT

- 1. On September 18, 1996, Judy Maya (Applicant) submitted an Application for an Individual Insurance License (life and disability) to the Arizona Department of Insurance (Department).
- 2. The Applicant responded "yes" to the question of whether she had ever been convicted of a felony. She listed a Perjury conviction in New Hampshire in 1984. The conviction was a result of her testimony at a Burglary trial of her son. The Applicant had testified that a ring which her son was accused of stealing was one which she recognized as belonging to her son prior to the burglary. The Applicant's son was convicted and the Applicant was charged with and convicted of perjury regarding the above testimony, Case No. 84-S-153F, Merrimack County Superior Court. She was sentenced to one year with all but seven days suspended. She was released after serving four days. Aside from this, the Applicant has had one speeding violation in 1990.

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- 3. Prior to moving to New Hampshire, the Applicant lived in California and was a licensed Animal Health Technician. After her release from the four-day incarceration in New Hampshire, the Applicant worked for the Newport, New Hampshire School District as a secretary to the vice principal and was also responsible for attendance security until June of 1985. Applicant and her family moved to Palm Springs, California in 1985 where she worked for Air Tech, Inc. and Lake Services (heating and air conditioning companies) as a bookkeeper, secretary and office manager until 1990. During this employment, the Applicant met Fred Gothelf (Gothelf), a Certified Public Accountant who did the accounting for these businesses. The Applicant was responsible for accounts receivable and payable, making bank deposits and handling unspecified amounts of cash. She also handled personal financial matters for her employer, Robert Diller. From 1990 to 1993, the Applicant worked for a restaurant in Palm Springs as an executive secretary and performed similar business functions. The Applicant and her family moved to Oregon in 1993 due to economic reasons. She had difficulty finding a job but worked at Anders Electric in 1994 for approximately four months before being laid off as part of downsizing. The Applicant's husband was also unemployed due to the closure of the store he was managing. The family moved to the Phoenix area and she attended The Bryman School taking classes to become a Practical Technician in radiology. She was unable to complete certain requirements because of personal medical concerns. The Applicant worked for Dr. David Perrine and Dr. Michael McCartney as an Office Manager from approximately September 1994 to May 1996. The Applicant left this job to prepare for and take her insurance examination.
- 4. The Applicant has a potential employment opportunity with The Horace Mann Companies contingent on her being licensed. She has also been in contact with Penn Mutual. Both of these companies and prior employers were informed of the felony conviction, by the Applicant.
- 5. The Department denied the Application on October 16, 1996, because of the prior felony conviction.

12, 1996.

CONCLUSIONS OF LAW

The Applicant filed her appeal of the Department's decision on November

- 1. The Director has jurisdiction of this matter under A.R.S. §20-161.
- 2. Under A.R.S. §20-290(B)(6), the Director may refuse to issue any license for conviction of a felony involving moral turpitude.
- 3. Perjury is a crime of moral turpitude, <u>Paschall v. State</u>, 524 A.2d. 1239 (Md. App.1987), <u>Chadwick v. State Bar of California</u>, 776 P. 2d. 240 (Cal.1989).
 - 4. The Applicant fully disclosed her conviction and accepts the consequences.
- 5. Gothelf testified he has known the Applicant for 11 years and finds her honest. Gothelf audited the company books on a monthly basis while the Applicant was working at Air Tech and Lake Services and never had any problems regarding financial matters for which the Applicant was responsible. Gotthelf also does the Applicant's taxes.
- 6. Dr. Perrine and Dr. McCartney prepared letters of recommendation for the Applicant and lauded her timeliness, organization, neatness and responsibility. Both expressed trust and confidence in the Applicant's character and honesty.
- 7. The Applicant was found credible in her testimony and although the seriousness of the conviction is acknowledged, it is the opinion of the Administrative Law Judge that the Applicant's conduct over the past 12 years has been exemplary and that she has shown herself as hardworking, reliable, honest and trustworthy over that period of time.
- 8. Although the statute allows the Director to refuse a license to the Applicant, based on the evidence in this case, the Applicant does not pose a threat to the Department, the industry, potential employers or clients.

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RECOMMENDATION

Under the facts and circumstances of this case, including but not limited to the duration of time that has elapsed since the Applicant's conviction and the Applicant's conduct since that conviction, the undersigned Administrative Law Judge recommends that the application for an individual life and disability agent license submitted to the Department by Judy Carrol Maya on September 16, 1996 be granted.

Done this day, January 14, 1997.

ALLEN W. REED
Administrative Law Judge

Original transmitted by mail this ____ day of January, 1997, to:

Charles R. Cohen, Acting Director ATTN: Curvey Burton Department of Insurance 2910 North 44th Street, #210 Phoenix, AZ 85018-7256

Ву _____