

JUN 26 1998

DEPT. OF INSURANCE
BY Kath

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of:

ROBERT GALE ONGLEY,

Respondent.

) Docket no. 98A-061-INS
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ORDER

On June 18, 1998, the Office of Administrative Hearings, through Administrative Law Judge Casey J. Newcomb submitted Recommended Decision of the Administrative Law Judge ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

1. The recommended findings of fact and conclusions of law are adopted.
2. Robert Gale Ongley's application for an insurance adjuster's license is denied.

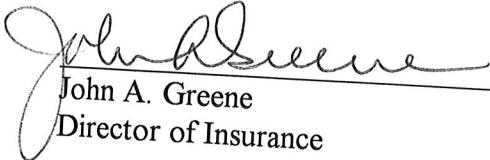
NOTIFICATION OF RIGHTS

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. A party filing an appeal must notify the Office of

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

3 DATED this 26 of June, 1998

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6 John A. Greene
Director of Insurance

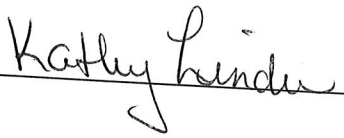
7 A copy of the foregoing mailed
8 this 26 day of June, 1998

9 Charles R. Cohen, Deputy Director
10 Gregory Y. Harris, Executive Assistant Director
11 John Gagne, Assistant Director
12 Catherine O'Neil, Assistant Director
13 Scott Greenberg, Business Administrator
14 Maureen Catalioto, Supervisor
15 Department of Insurance
16 2910 N. 44th Street, Suite 210
17 Phoenix, AZ 85018

18 Office of Administrative Hearings
19 1700 W. Washington, Suite 602
20 Phoenix, AZ 85007

21 Roger T. Martindale
22 Assistant Attorney General
23 1275 West Washington
Phoenix, AZ 85007

Robert Gale Ongley
4312 Blacksmith Street
Tucson, AZ 85741

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1 in prison for 1.5 to six years. The Petitioner testified that he was released on parole in
2 November of 1970. The Petitioner testified that he was released from parole in February
3 of 1973.

4 7. The Petitioner testified that he was only 19 years old when his friend persuaded him to
5 drive the getaway car for a robbery of a bank. The robbery failed. Fortunately, nobody
6 was injured. The Petitioner testified that he chose to drive the getaway car so that he
7 would not have to shoot anybody. The Petitioner testified that he had a clean criminal
8 record prior to his conviction. More importantly, the Petitioner testified that he has had a
9 clean criminal record since his release from prison.

10 8. The Petitioner testified that after he was released from parole, he eventually became a
11 church counselor in California for seven years. The Petitioner testified that in 1981 he
12 started a janitorial business which he eventually sold in 1988. The Petitioner testified that
13 he also married and started a family.

14 9. The Petitioner testified that (upon the sale of his janitorial business) he trained to
15 become an insurance adjuster in California with David Morse & Associates. The
16 Petitioner testified that he worked in California as an insurance adjuster from 1988 to
17 1995.

18 10. The Petitioner testified that he moved to Tucson, Arizona in November of 1995. The
19 Petitioner testified that he continued to work for David Morse & Associates. The
20 Petitioner testified that he was warned by his supervisor (in 1995) that he had six months
21 to obtain an insurance license from the State of Arizona to be an insurance adjuster.

22 11. The Petitioner conceded that he did not timely apply for an insurance license
23 because he was "distracted" by personal financial problems at home. The Petitioner also
24 conceded that he procrastinated in applying for the insurance license. The Petitioner
25 testified that he started the application process in May or June of 1996. The Petitioner
26 testified that he (1) had his picture taken; (2) was fingerprinted; and (3) sent for his
27 criminal records in Pennsylvania.

28 12. The Petitioner testified that he submitted at least two applications to David Morse &
29 Associates that eventually were returned to him. Apparently, the applications were
30 rejected for insufficient information. It is unclear to the undersigned Administrative Law

1 Judge if it was the Department or the employer that actually rejected these applications.
2 Unfortunately, the Petitioner could submit no documentation showing that these
3 applications were actually submitted to the Department.

4 13. The Petitioner testified that he worked as a part-time insurance adjuster from
5 November of 1995 to June of 1996. The Petitioner testified that he worked as a full-time
6 insurance adjuster from June of 1996 to when he submitted his Application. The
7 Petitioner testified that he submitted the Application in November or December of 1997.

8 14. The undersigned Administrative Law Judge finds that the Petitioner has a record of
9 conviction by final judgment of a felony involving moral turpitude. However, the
10 undersigned Administrative Law Judge further finds that the Petitioner's felony conviction
11 by itself probably would not be grounds for denying his Application because (1) the
12 Petitioner committed the felony almost 30 years ago when he was only 19 years old; (2)
13 the Petitioner served his time; (3) the Petitioner has had a clean criminal record since his
14 conviction; (4) the Petitioner served as a church counselor for seven years; and (5) the
15 Petitioner has contributed in a positive way to society as a businessman and family man.

16 15. However, the undersigned Administrative Law Judge cannot overlook the fact that
17 the Petitioner willfully acted as an insurance adjuster for over two years without a proper
18 license.

19 CONCLUSIONS OF LAW

20 1. The Petitioner has a record of conviction by final judgment of a felony involving moral
21 turpitude within the meaning of A.R.S. §§20-290(B)(6) & 20-316(A)(6).

22 2. The Petitioner willfully acted as an insurance adjuster for over two years without a
23 proper license (and without paying the proper licensing fees) in violation of A.R.S. §§20-
24 312(A), 20-107(A), 20-312(B), and 20-316(A)(2).

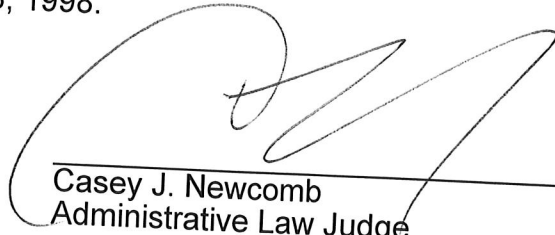
25 3. The above determinations provide grounds for the Director to exercise his discretion in
26 refusing to issue an insurance adjuster's license pursuant to A.R.S. §§20-290(B).

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RECOMMENDED DECISION

Based upon the forgoing, the undersigned Administrative Law Judge recommends that the Director deny the Petitioner's Application (received by the Department on January 9, 1998) for an insurance adjuster's license.

Done this day, June 18, 1998.


Casey J. Newcomb
Administrative Law Judge

Original transmitted by mail this
18 day of June, 1998, to:

Mr. John A. Greene, Director
Department of Insurance
2910 North 44th Street, Ste. 210
Phoenix, AZ 85018
ATTN: Curvey Burton

By Chris Crawford Thomson