

STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

LUCINDA ELLIOTT

Petitioner.

No. 21A-043-INS

ORDER

On July 30, 2021, the Office of Administrative Hearings, through Administrative Law Judge Velva Moses-Thompson, issued an Administrative Law Judge Decision (“Recommended Decision”). The Director of the Arizona Department of Insurance and Financial Institutions (“Director”) received the Recommended Decision on August 16, 2021, a copy of which is attached and incorporated by reference. The Director has reviewed the Recommended Decision and enters the following:

1. The Director ADOPTS the Recommended Findings of Fact.
2. The Director ADOPTS the Recommended Conclusions of Law.
3. The Director ADOPTS the Recommended Order.
4. The Director orders that the Department’s denial of Lucinda Elliott’s application for a temporary Arizona insurance producer license is affirmed.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Respondent may request a rehearing or review with respect to this Order by filing a written motion with the Director within 30 days after the date of this Order, setting forth the basis for relief under Arizona Administrative Code R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not necessary to request a rehearing before filing an appeal to the Superior Court.

1 Respondent may appeal the final decision of the Director to the Superior Court of
2 Maricopa County for judicial review, pursuant to A.R.S. § 20-166. A party filing an appeal
3 must notify the Office of Administrative Hearings of the appeal within ten days after filing the
4 complaint commencing the appeal, pursuant A.R.S. § 12-904(B).

5 DATED this 19th day of August, 2021.

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7 _____
8 Evan G. Daniels, Director
9 Arizona Department of Insurance and
10 Financial Institutions

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16 **COPY** of the foregoing electronically transmitted
17 this 24th day of August, 2021, to:

18 Velva Moses-Thompson, Administrative Law Judge
19 Office of Administrative Hearings
20 <https://portal.azoah.com/submission>

21 **COPY** of the foregoing mailed by U.S. Certified Mail,
22 Electronic Receipt Requested, same date to:

23 Lucinda Elliott 9489 0090 0027 6354 0199 78
24 2719 N. Campbell Ave.
Tucson, AZ 85719
Petitioner

25 Lucinda Elliott 9489 0090 0027 6354 0199 85
26 203 E. Calle Trona
Green Valley, AZ 85614
Petitioner

1 **COPY** of the foregoing electronically delivered same date to:

2 Deian Ousounov, Regulatory Legal Affairs Officer
3 Ana Starcevic, Paralegal Project Specialist
4 Steven Fromholtz, Division Manager
5 Aquellah Currie, Licensing Supervisor
6 Linda Lutz, Legal Assistant
7 Arizona Department of Insurance and Financial Institutions
8 100 North 15th Avenue, Suite 261
9 Phoenix, Arizona 85007

10 **COPY** sent same date via electronic mail to:

11 Lucinda Elliott
12 Lucgar78@hotmail.com
13 Petitioner

14 James Rolstead, Assistant Attorney General
15 James.Rolstead@azag.gov
16 AdminLaw@azag.gov
17 Attorney for the Department

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Ana Starcevic

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 21A-043-INS

LUCINDA ELLIOTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARING: July 30, 2021

APPEARANCES: Petitioner Lucinda Elliott appeared on behalf of herself.
Assistant Attorney General James Rolstead appeared on behalf of the Arizona
Department of Insurance and Financial Institutions.

ADMINISTRATIVE LAW JUDGE: Velva Moses-Thompson

Petitioner Lucinda Elliott (Ms. Elliott) appealed the denial of her Insurance License Application with the Arizona Department of Insurance and Financial Institutions (the Department). Based on the evidence of record, the Administrative Law Judge makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. In April of 2012, in the Circuit Court of the Tenth Judicial Circuit of Illinois, Ms. Elliott pleaded guilty to and was convicted of Theft, a Class 2 felony. See Exhibit 6. The court imposed a sentence of 180 days in jail and 36 months of probation. See *id.*

2. Ms. Elliott's probation terminated in April of 2015. See Exhibit 7.

3. On or about April 30, 2021, Ms. Elliott filed an application for a Temporary Insurance Producer's License (the Application) with the Department with lines of authority in property and casualty insurance. See Exhibit 1.

4. Ms. Elliott responded "Yes" to the following questions on the Application:¹

1A. Have you EVER been found guilty of, have you had a judgment made against you for, or have you admitted to, any of the following:

¹ See Exhibit 1.

1 1. A felony (of an kind)?

2
3 4. Withholding, misappropriating, converting or stealing
4 money or property?

5 6. Using fraudulent, coercive or dishonest business practices
6 including forgery with intent to defraud?

7 7. Conducting business in an incompetent, untrustworthy o
8 financially irresponsible manner? convicted of a
9 misdemeanor, had a judgment withheld or deferred, or are
10 you currently charged with committing a misdemeanor?

11 5. Ms. Elliott further disclosed in the Application that on multiple occasions,
12 she failed to deposit money from clients in a client trust account while working for a law
13 firm. See Exhibits 1 and 2.

14 6. On May 12, 2021, the Department notified Ms. Elliott that the Application
15 was denied pursuant to Arizona Revised Statutes (A.R.S.) sections 20-295(A)(6) and
16 (A)(8).

17 7. Ms. Elliott requested a hearing regarding the denial.

18 8. On June 22, 2021, the Department issued a Notice of Hearing setting the
19 matter for hearing on July 30, 2021 at 1:00 p.m. The Notice of Hearing provided that the
20 purpose of the hearing was to determine "whether grounds exist to affirm the
21 Department's intent to deny Petitioner's application for an Arizona Insurance license."

22 9. A hearing was held on July 30, 2021. The Department presented the
23 testimony of its Licensing Supervisor, Aqueelah Curry and submitted exhibits 1 through
24 9. Ms. Elliott testified on behalf of herself and submitted exhibit A.

25 10. At hearing, Ms. Elliott contended that the Application should be approved
26 because she knows that her actions were irresponsible. Ms. Elliott stated that her past
27 mistakes were well outside of her character.

28 11. Ms. Elliott asserted that she has taken responsibility for her past mistakes.
29 Ms. Elliott explained that she served 90 days in jail and 3 years on probation without
30 any violation or incident. Ms. Elliot stated that she worked several jobs to pay off the

1 \$11,000 restitution plus penalties as required. Ms. Elliott explained that she has been
2 upfront with potential employers regarding her felony.

3 12. Ms. Elliot stated that she lost her home, her car, and temporary custody of
4 her children for a short period of time due to her past mistake. Ms. Elliott stated that she
5 assisted in the prosecution of her case.

6 13. On cross-examination, Ms. Elliott admitted that she benefitted financially
7 from her crimes.

8 13. Ms. Elliott explained that she has been responsible for inventory at a
9 dealership and for customers' payments without any problems. Ms. Elliott explained that
10 Edmund Marquez, the Agency Principal for Edmund Allstate Agencies in Tucson, AZ
11 has agreed to regulate, train, and manage Ms. Elliott's work as an insurance agent. In
12 support of her case, Ms. Marquez submitted a letter from Mr. Marquez. See *Exhibit A*.
13 Mr. Marquez stated that he believes that Ms. Elliott has learned from her past mistakes
14 and would not be a threat to the public. See *id.*

15 14. Ms. Elliott contended that the Director's authority to deny the Application
16 under A.R.S. § 20-295(A) is not mandatory. Ms. Elliott stated that the felony occurred 12
17 years ago and does not reflect on her character nor her ability to perform as an
18 insurance license producer.

19 15. The Department argued that the denial was appropriate because
20 Ms. Elliott committed acts of theft in connection with her employment. The Department
21 asserted that Ms. Elliott is a risk to the public even if she is rehabilitated. The
22 Department asserted that Ms. Elliott cannot work as a licensed agent under
23 Mr. Marquez's monitoring because the Department does not issue provisional licenses.

24 **CONCLUSIONS OF LAW**

25 1. This matter lies within the Department's jurisdiction.²

26 2. The Notice of Hearing that the Department mailed to Respondent at her
27 address of record was reasonable, and Respondent is deemed to have received notice
28 of the hearing.³

29 ² See A.R.S. §§ 20-281 to 20-302.

30 ³ See A.R.S. §§ 41-1092.04; 41-1092.05(D).

1 3. This matter is a disciplinary proceeding wherein the Department must
2 prove by a preponderance of the evidence that Respondent violated the State's
3 Insurance Laws.⁴

4 4. Once good character is shown to be absent, it is not automatically
5 regained by the mere passage of time. The legislature established the Department to
6 protect consumers.⁵ It is undisputed that Petitioner stole clients' funds for her own
7 benefit while in a position of trust. Based on the evidence presented at hearing, the
8 Administrative Law Judge concludes that the Department's denial was appropriate due
9 to the nature and severity of the crime.

10 5. Grounds exist for the Director of the Department deny the Application
11 License pursuant to A.R.S. § 20-295(A)(6) and (A)(8).

12 **ORDER**

13 Based upon the above, the Department's denial of Petitioner Lucinda Elliott's
14 application for a Temporary Insurance License is affirmed.

15 *In the event of certification of the Administrative Law Judge Decision by the*
16 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
17 *five (5) days from the date of that certification.*

18 Done this day, July 30, 2021.

19 /s/ Velva Moses-Thompson
20 Administrative Law Judge

21 Transmitted electronically to:

22 Evan G. Daniels,
23 Department of Insurance and Financial Institutions - Insurance
24
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29 ⁴ See A.A.C. R2-19-119.

30 ⁵ See Laws 1990, Ch. 38, § 1.