

STATE OF ARIZONA
Department of Insurance and Financial Institutions
FILED __November 26_____, 2024 by MK

STATE OF ARIZONA
DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:

TYLER ALAN SMITH

Petitioner.

No. 24A-073-INS

ORDER

On November 1, 2024, 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 November 4, 2024, a copy of which is attached and incorporated by reference. Petitioner failed to accept the Recommended Decision within ten days of receipt. Therefore, the Director has reviewed the Recommended Decision and enters the following:

1. The Director ADOPTS the Findings of Fact;
2. The Director ADOPTS the Conclusions of Law;
3. The Director ADOPTS the Recommended Order; and
4. The Director ORDERS that:
 - The Department’s denial of Tyler Alan Smith’s insurance producer license application is upheld.
 - Tyler Alan Smith’s appeal of the license application denial is dismissed.
 - The Department’s denial of Tyler Alan Smith’s application for a waiver to engage in insurance business pursuant to USC § 1033(e)(2) is upheld.

NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Petitioner may request

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

5 Petitioner may appeal the final decision of the Department to the Superior Court of
6 Maricopa County for judicial review, pursuant to A.R.S. § 20-166. A party filing an appeal
7 must notify the Office of Administrative Hearings of the appeal within ten days after filing the
8 complaint commencing the appeal, pursuant to A.R.S. § 12-904(B).

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DATED and EFFECTIVE this 26th day of November, 2024.

Barbara D. Richardson

Barbara D. Richardson, Director
Arizona Department of Insurance and Financial Institutions

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ORIGINAL of the foregoing filed electronically
this 27th day of November, 2024, to:

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

COPY of the foregoing delivered the same date, to:

Alena Caravetta, Regulatory Legal Affairs Officer
Ana Starcevic, Unit Project Specialist
Steven Fromholtz, Licensing Division Manager
Linda Lutz, Legal Assistant
Aqueelah Currie, Licensing Supervisor
Arizona Department of Insurance and Financial Institutions
100 North 15th Avenue, Suite 261
Phoenix, Arizona 85007

COPY mailed the same date by U.S First Class and
Certified Mail, Return Receipt Requested, to:

Tyler Smith
3641 E. Bermuda Street
Tucson, AZ 85716
Petitioner
9489 0090 0027 6599 2840 94

COPY sent via electronic mail the same date, to:

Tyler Smith
Tyler3641e@gmail.com
Tyleralansmith01@gmail.com
Petitioner

Zachary Howard, Assistant Attorney General
Zachary.Howard@azag.gov
AdminLaw@azag.gov
Attorney for the Department

Mayra Kariem

STATE OF ARIZONA
Department of Insurance and Financial Institutions
RECEIVED November 4, 2024 by AS

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 24A-073-INS

Tyler Alan Smith,

ADMINISTRATIVE LAW JUDGE
DECISION

Petitioner.

HEARING: October 16, 2024

APPEARANCES: Petitioner Tyler Alan Smith appeared on behalf of himself.

Assistant Attorney General Zachary Howard represented the Arizona Department of Insurance.

ADMINISTRATIVE LAW JUDGE: Velva Moses-Thompson

EXHIBITS ADMITTED INTO EVIDENCE: Exhibits 1 through 6.

FINDINGS OF FACT

1. On January 3, 2018, in the Pima County Superior Court of Arizona, Petitioner pleaded guilty to and was convicted of six amended counts of Robbery, all Class 4 felonies. See Exhibit 3. The court suspended imposition of sentence and placed Appellant on intensive probation for four years. See id.

2. On July 14, 2021, in the Pima County Superior Court of Arizona, Petitioner pleaded guilty to and was convicted of Amended Count One: ATTEMPTED SALE OF A DANGEROUS DRUG, TO WIT: ALPRAZOLAM PILLS, a Class 3 felony, based on conduct that occurred on February 8, 2021. See Exhibit 5.

3. On July 14, 2021, in the Pima County Superior Court of Arizona, Petitioner pleaded guilty to and was convicted of count eight, POSSESSION OF DEADLY WEAPON BY PROHIBITED POSSESSOR, a Class 4 felony, based on conduct that occurred on February 16, 2021. See Exhibit 5.

4. On July 14, 2021, the Court sentenced Petitioner to two and a half years of incarceration in the Arizona Department of Corrections for amended count one, and four years of intensive supervised probation upon the release from prison, for county eight.

5. On August 14, 2024, Petitioner submitted an application for an insurance license to the Department.

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6. On August 14, 2024, the Department issued a notice denying Petitioner's application for an insurance license.

7. Petitioner request a hearing regarding the August 14, 2024 denial.

8. The matter was referred to the Office of Administrative Hearings for an evidentiary hearing.

9. A hearing was held on October 16, 2024.

10. At hearing, Petitioner testified on behalf of himself. The Department presented the testimony of its Licensing Supervisor, Aqueelah Currie.

CONCLUSIONS OF LAW

1. Petitioner bears the burden of persuasion. See ARIZ. REV. STAT. § 41-1092.07(G)(1).

2. The standard of proof on all issues in this matter is that of a preponderance of the evidence. ARIZ. ADMIN. CODE § R2-19-119.

3. A preponderance of the evidence is:

The greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

4. The Director may deny an insurance producer's license to a person who has been convicted of a felony. See Arizona Revised Statutes § 20-295(A)(9).

5. It is undisputed that Petitioner has been convicted of two felonies. Therefore, the Director has grounds to deny the Application pursuant to Arizona Revised Statutes § 20-295(A)(9).

6. It is undisputed that Petitioner has been convicted of a felony involving a breach of trust. Therefore, the Director has grounds to deny Petitioner's application for a waiver to engage in insurance business pursuant to 18 U.S.C. 1033(e)(2).

7. Although Petitioner has worked to become a better person, Petitioner has not presented any legal authority or legal argument to show that the Department erred in its determination.

8. Therefore, Petitioner's appeal should be dismissed.

ORDER

IT IS ORDERED that Tyler Alan Smith appeal is dismissed.

Pursuant to A.R.S. § 41-1092.08(I), the licensee may accept the Administrative Law Judge Decision by advising the Office of Administrative Hearings in writing not more than ten (10) days after receiving the decision. If the licensee accepts the Administrative Law Judge Decision, the decision shall be certified as the final decision by the Office of Administrative Hearings.

In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order will be forty (40) days from the date of that certification.

Done this day, November 1, 2024.

/s/ Velva Moses-Thompson
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile to:

Barbara D. Richardson,
Department of Insurance and Financial Institutions - Insurance

Zachary Howard, Esq.
Office of the Attorney General
zachary.howard@azag.gov

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By: OAH Staff