

SEP 6 1996

DEPT. OF INSURANCE  
BY RDP

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

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In the Matter of:	)	No. 96A-114-INS
	)	
LARRY DALE BRANUM,	)	<b>ORDER</b>
	)	
Petitioner.	)	
	)	
	)	

On September 3, 1996, the Office of Administrative Hearings, through Administrative Law Judge Richard N. Blair submitted "Recommended Decision of Administrative Law Judge", a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the recommendation, and enters the following order:

1. The recommended findings of fact and conclusions of law are adopted.
2. The application for a bail bond agent license submitted to the Department by Larry Dale Branum on March 12, 1996, 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).

1 The final decision of the Director may be appealed to the Superior Court of Maricopa County for  
2 judicial review pursuant to A.R.S. § 20-166.

3 EFFECTIVE this 6<sup>th</sup> day of September, 1996

4  
5   
6 \_\_\_\_\_  
7 John King  
8 Director of Insurance


9 A copy of the foregoing mailed  
10 this 6<sup>th</sup> day of September, 1996

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

19 Michael J. De La Cruz  
20 Assistant Attorney General  
21 1275 West Washington  
22 Phoenix, AZ 85012  
23 Attorney for Department

Office of Administrative Hearings  
1700 West Washington, Suite 602  
Phoenix, AZ 85007

Larry Dale Branum  
960 Peace Lane, #41  
Prescott, AZ 86301  
Petitioner

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 96A-114-INS

**LARRY DALE BRANUM,**

**RECOMMENDED DECISION  
OF ADMINISTRATIVE  
LAW JUDGE**

Petitioner.

STATE OF ARIZONA  
RECEIVED

SEP 5 1996

DIRECTOR'S OFFICE  
INSURANCE DEPT.

**HEARING:** August 29, 1996

**APPEARANCES:** Clifford Sherr, Esq., on behalf of Larry Dale Branum,  
Petitioner; and Assistant Attorney General Michael J. De La Cruz on behalf of the  
Arizona Department of Insurance.

**ADMINISTRATIVE LAW JUDGE:** Richard N. Blair

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

**FINDINGS OF FACT**

1. On March 12, 1996, Larry Dale Branum ("Mr. Branum") submitted an  
application for a bail bond agent license (the "Application") to the Arizona Department of  
Insurance (the "Department") and was issued a conditional license in connection with  
that Application upon Mr. Branum's execution of an Agreement for Conditional License.

2. Mr. Branum answered "NO" to Question F(1) of the Application which  
asks: "Have you EVER been convicted of a misdemeanor?"

. . .

. . .

. . .

. . .

1           3.       Mr. Branum also answered "NO" to Question F(3) of the Application which  
2 asks: " Have you EVER been arrested, questioned, served a criminal summons, taken  
3 into custody, charged with, tried for, or ever been the subject of an investigation  
4 concerning the violation of any felony or misdemeanor, or are any charges now pending  
5 against you?"

6           4.       In a letter dated May 29, 1996, the Department informed Mr. Branum that  
7 his conditional license was revoked and his Application denied because Mr. Branum,  
8 misrepresented his criminal background on the Application.

9           5.       On June 6, 1996, Mr. Branum timely filed with the Department a demand  
10 for hearing regarding this matter.

11          6.       On February 7, 1994, Mr. Branum was arrested, taken into custody and  
12 questioned by the Prescott Police Department. Mr. Branum was then booked and  
13 charged at the Yavapai County Jail.

14          7.       On February 7, 1994, a Felony Complaint was filed in the Prescott  
15 Justice Court, State of Arizona v. Larry Branum, Case No. 94020187J, charging Mr.  
16 Branum with Sexual Abuse in violation of A.R.S. §§ 13-1404, 13-1401, 13-701, 13-702,  
17 and 13-801, a class 5 felony.

18          8.       On February 10, 1994, a Felony Indictment was filed in the Yavapai  
19 County Superior Court, State of Arizona v. Larry Branum, Case No CR94-0158,  
20 charging Mr. Branum with Sexual Abuse, a class 5 felony, in violation of A.R.S. §§ 13-  
21 1404, 13-1401, 13-701, 13-702, and 13-801. The Court dismissed that Indictment on  
22 June 2, 1994, because the Yavapai County Attorney's Office refiled the case as a  
23 misdemeanor in Prescott Justice Court.

24          9.       On June 2, 1994, a Misdemeanor Complaint was filed in Yavapai County  
25 Superior Court, State of Arizona v. Larry D. Branum, Case No. 94050755J ("Case No.  
26 94050755J"), charging Mr. Branum with Assault, a class 3 misdemeanor, in violation of  
27 A.R.S. §§ 13-1203(A)(3) and (B), 13-707, and 13-802.

28          10.       On July 18, 1994, a trial was held in Case No. 94050755J and on August  
29 1, 1994, Mr. Branum was found guilty and convicted of Assault, a class 3  
30

1 misdemeanor, in violation of A.R.S. § 13-1203. The Court imposed a fine of \$175.00  
2 on Mr. Branum.

3 11. Mr. Branum admitted that in February 1994 he was questioned by the  
4 Prescott Police and subsequently booked and incarcerated in the Yavapai County Jail.  
5 However, Mr. Branum contends that at the time the Application was completed he was  
6 not familiar with the criminal justice system and was therefore unaware that he had  
7 been arrested, charged with a felony or misdemeanor, or convicted of misdemeanor  
8 Assault. Mr. Branum stated that he first became aware of his conviction after receiving  
9 the Department's March 29, 1996 letter denying the Application.

10 12. Mr. Branum stated that his failure to affirmatively answer question F(3) on  
11 the Application, regarding whether he had ever been questioned, was a mistake and  
12 was done without any intent to misrepresent. Mr. Branum further testified that his  
13 eyesight is affected by diabetes and that he did not carefully read question F(3).

14 13. Mr. Branum's testimony as set forth above in paragraphs 11 and 12 was  
15 not credible.

#### 16 CONCLUSIONS OF LAW

17 1. The Director has jurisdiction over this matter pursuant to  
18 A.R.S. §§ 20-1061 and 20-290.

19 2. The failure of Mr. Branum to answer questions F(1) and F(3) on the  
20 Application in the affirmative is a material misrepresentation in the application for, or  
21 attempt to obtain, any insurance license within the meaning of A.R.S. § 20-290(B)(1).

22 3. Pursuant to A.R.S. § 20-290(B)(1), the Director may refuse to issue a  
23 license to Mr. Branum if the Director finds that Mr. Branum made a material  
24 misrepresentation or committed fraud in the application for, or attempt to obtain, any  
25 insurance license.

26 4. Mr. Branum has not met his burden of proof and shown by a  
27 preponderance of the evidence that he has the requisite qualifications to be licensed by  
28 the Department as a bail bond agent.

29 . . .

**RECOMMENDED ORDER**

Based on the foregoing, the undersigned Administrative Law Judge recommends that the application for a bail bond agent license submitted to the Department by Larry Dale Branum on March 12, 1996, be denied.

Done this day, September 3rd, 1996.

OFFICE OF ADMINISTRATIVE HEARINGS



Richard N. Blair  
Administrative Law Judge

*Original*

Copy transmitted by mail  
September 3, 1996

by Chris Crawford; to:

John King, Director  
Department of Insurance  
2910 North 44th Street, #210  
ATTN: Curvey Burton  
Phoenix, AZ 85018-7256