

APR 25 1997

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY CB

In the Matter of:	)	Docket No. 97A-056-INS
	)	
MICHAEL R. LEIBOW,	)	<b>ORDER</b>
	)	
Petitioner.	)	
	)	

On April 23, 1997, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted "Recommended Decision of 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. The application for a life and disability insurance agent license submitted by Michael R. Leibow on October 31, 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).

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 25 day of April, 1997

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5   
6 John A. Greene  
Director of Insurance

7 A copy of the foregoing mailed  
8 this 25th day of April, 1997

9 Charles R. Cohen, Deputy Director  
10 John Gagne, Assistant Director  
11 Catherine O'Neil, Assistant Director  
12 Scott Greenberg, Business Administrator  
Maureen Catalioto, Supervisor  
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17 Michael R. Leibow  
18 3109 E. Northridge  
Mesa, AZ 85213-1636

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1 beneficiaries, and/or others received in or during the conduct of business under Mr.  
2 Leibow's insurance license or through its use in violation of A.R.S. §20-316 (A)(4).

3 6. In the Order, the Director determined that Mr. Leibow's conduct constituted  
4 a conduct of affairs under his insurance agent license showing him to be incompetent  
5 or a source of injury and loss to, or repeated complaint by, the public or any insurer, in  
6 violation of A.R.S. §20-316 (A)(7).

7 7. At the hearing, Mr. Leibow testified that upon receipt of the Order, he  
8 notified the insurance carriers with whom he conducted business and informed them  
9 that his insurance agent license had been revoked by the Department and that he could  
10 no longer engage in the transaction of insurance business as an insurance agent.. Mr.  
11 Leibow also testified that he paid the \$3,000.00 penalty in accordance with the terms of  
12 the Order.

13 8. Mr. Leibow testified that after he received the Order, he sought  
14 psychological counseling for approximately two months on a weekly basis to help him  
15 deal with the revocation of his insurance license.

16 9. Mr. Leibow expressed remorse as to his prior conduct which gave rise to  
17 the Department's revocation of his insurance agent license and for not being truthful to  
18 the Department during its investigation of those matters.

19 10. It is determined that Mr. Leibow was a sincere and credible witness.

20 11. Although Mr. Leibow claimed that he has taken measures to assure that  
21 the conduct determined in the Order would not reoccur, the only evidence that was  
22 provided in support of that contention was Mr. Leibow's testimony that if the Application  
23 is granted he would not place himself in a situation where the payer of insurance  
24 premiums is a person other than the insured.

25 12. At the time of the conduct described in the Order, Mr. Leibow acted as an  
26 insurance agent and also operated a tax preparation and financial planning business.  
27 Since the revocation of his insurance agent license, Mr. Leibow has continued to  
28 operate the tax preparation and financial planning businesses. Mr. Leibow holds a  
29 license issued by the Internal Revenue Service which authorizes him to appear before  
30 that agency on behalf of his tax clients and, to his knowledge, has not had any  
complaints filed against him.

13. Other than Mr. Leibow's testimony and the presentation of his license  
examination scores, there were no character witnesses or evidence presented that  
established that Mr. Leibow has the requisite qualifications to be issued an insurance

agent license.

**CONCLUSIONS OF LAW**

1. Mr. Leibow has a record of misappropriation, conversion or irregular withholding of monies belonging to policyholders, insurers, beneficiaries or others received in the conduct of insurance business, within the meaning of A.R.S. § 20-290(B)(3).

2. Mr. Leibow has a record of dishonesty in business or financial matters, within the meaning of A.R.S. §20-290(B)(2).

3. Mr. Leibow has a record of conduct under an Arizona insurance license showing him to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer, within the meaning of A.R.S. §20-290(B)(4).


4. Mr. Leibow has a record of revocation of an insurance license within the meaning of A.R.S. §20-290(B)(5).

5. The above determinations provide grounds for the Director to exercise his discretion in refusing to issue an insurance agent license to Mr. Leibow pursuant to A.R.S. §20-290 (B).

**RECOMMENDED ORDER**

Based on the above, the Administrative Law Judge recommends that the Director deny the application for a life and disability insurance agent license submitted to the Department by Mr. Leibow on October 31, 1996.

Done this day, April 23, 1997.

  
LEWIS D. KOWAL  
Administrative Law Judge

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Original transmitted by mail this  
23 day of April, 1997, to:

Mr. John A. Greene, Director  
ATTN: Curvey Burton  
Department of Insurance  
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Phoenix, AZ 85018-7256

By Chris Crawford Thomas