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STATE OF ARIZONA
DEPARTMENT OF INSURANCE DEPARTMENT OF INSURANCE
By *W*

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In the Matter of:) Docket No. 7832
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DANIEL E. BUTNER,) ORDER
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))
Respondent.))
_____))

On November 5, 1992 a hearing was held in the above-referenced matter. Respondent was present and appeared without counsel. The Arizona Department of Insurance ("Department") was represented by Felecia Rotellini, Assistant Attorney General.

Based upon the evidence and arguments presented at the hearing, we find as follows:

FINDINGS OF FACT

1. Notice of this hearing was mailed to Respondent at his address of last record.

2. Respondent is presently licensed as a life and disability insurance agent and a property and casualty insurance agent in the State of Arizona (license number 4303).

3. Respondent submitted an Answer which was received at the Department on October 19, 1992 wherein he admitted the allegations of paragraphs 1 through 5 of the Notice of Hearing.

4. On or about July 31, 1992, Respondent submitted an application for renewal of his property and casualty agent's license.

5. By letter dated August 13, 1992, the Department advised Respondent that his application for renewal was being denied pursuant to A.R.S. § 20-290(B)(1) without limitation.

1 6. By letter dated August 18, 1992 and received at the
2 Department on August 22, 1992, Respondent timely requested a
3 hearing to contest the denial.

4 7. Respondent answered "No" to question 7.d) on said
5 renewal application which reads as follows:

6 Since your last application or renewal thereof, have
7 you had any professional, vocational, or business
8 license denied, suspended, revoked, or restricted, or
9 a fine imposed by any public authority, or withdrawn
10 any application for or surrendered any such license to
11 avoid disciplinary action?

12 8. Respondent had last applied to the Department for his
13 original property and casualty agent's license on March 2,
14 1992.

15 9. By letter dated March 13, 1992, the Director of the
16 Missouri Department of Insurance advised Respondent that his
17 1992 application for licensure as an insurance agent in the
18 State of Missouri was refused based upon his handling of a
19 certain insurance account in Missouri.

20 10. Respondent testified that certain administrative
21 proceedings brought against him by the Missouri Department of
22 Insurance were dismissed without prejudice in 1991 and that he
23 received a "clearance letter" dated September 5, 1991 from the
24 Missouri Department of Insurance which he believed cleared him
25 of any charges and cleared him to apply for licensure in another
26 state. Respondent further testified that based upon advice of
27 counsel he believed the dismissal without prejudice meant that
28 the proceedings could not be brought against him again and that

1 inasmuch as he was never found guilty of mishandling the
2 insurance account in Missouri he believed question 7.d) on the
3 renewal application should not apply to him and that he had
4 answered the question correctly for his situation.

5 11. Respondent further testified that he realizes now that
6 he should have answered "Yes" to question 7.d) on the renewal
7 application, and apologizes.

8 12. The "clearance letter" from the Missouri Department of
9 Insurance gives notice that Respondent's Missouri insurance
10 licenses were cancelled effective August 21, 1991, but does not
11 appear to clear him of any charges nor have any effect on his
12 ability to obtain licensure in any state.

13 CONCLUSIONS OF LAW

14 1. The Director has jurisdiction in this matter pursuant
15 to A.R.S. § 20-142.

16 2. Notice of this hearing was proper pursuant to A.R.S.
17 §§ 41-1061 and 20-163.

18 3. Respondent's conduct constitutes the existence of
19 misrepresentation or fraud in obtaining or attempting to obtain
20 any insurance license, in violation of A.R.S. § 20-316(A)(3).

21 4. Respondent's conduct constitutes the existence of any
22 cause for which original issuance or any renewal of Respondent's
23 licenses could have been refused within the meaning of A.R.S. §
24 20-316(A)(1) together with A.R.S. § 20-290(B)(1).

25 5. Respondent's asserted justification for his conduct is
26 found to be neither credible nor sufficient to overcome the
27 existence of grounds to revoke his insurance licenses.

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1 ORDER

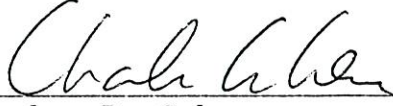
2 NOW, THEREFORE, IT IS ORDERED:

3 All insurance licenses held by Respondent, Daniel E.
4 Butner, are hereby revoked, effective immediately.

5 The aggrieved party may request a rehearing with respect to
6 this Order by filing a written petition with the Hearing Officer
7 within thirty days of the date of this Order, setting forth the
8 basis for such relief pursuant to A.A.C. R4-14-114(B).

9 DATED this 16th day of November, 1992.

10 
11 _____
12 Susan Gallinger
13 Director of Insurance

14 
15 _____
16 Charles R. Cohen
17 Hearing Officer

18 COPY of the foregoing mailed/delivered
19 this 16th day of November, 1992, to:

20 Felecia Rotellini, Esq.
21 Assistant Attorney General
22 Attorney General's Office
23 1275 West Washington
24 Phoenix, Arizona 85007

25 Joseph M. Hennelly, Jr., Deputy Director
26 Jay Rubin, Assistant Director
27 **Maureen Catalioto**, Supervisor
28 Arizona Department of Insurance
3030 North 3rd Street, Suite 1100
Phoenix, Arizona 85012

Daniel E. Butner
733 West St. Andrews Boulevard, Suite 1047
Chandler, Arizona 85224

Mutual of Omaha
100 West Clarendon, Suite 1220
Phoenix, Arizona 85013

1 United American Insurance Company
2 Post Office Box 810
3 Dallas, Texas 75221

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5 Curvey Walters

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STATE OF ARIZONA

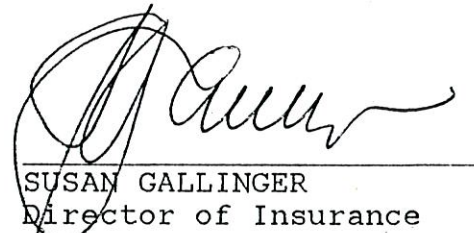
DEPARTMENT OF INSURANCE

In the Matter of:)	Docket No. 7832
)	
DANIEL E. BUTNER,)	REDELEGATION OF
)	AUTHORITY
Petitioner.)	
_____)	

Pursuant to A.R.S. §20-150, the Director of Insurance hereby delegates all of her authority, powers, duties and functions, whether ministerial or discretionary, with which she is vested as Director of Insurance of the State of Arizona, whether implied or expressed to Charles R. Cohen, Esq., for the purpose of acting as hearing officer in this matter.

This Delegation of Authority shall continue until specifically revoked.

DATED this 30th day of October, 1992.



SUSAN GALLINGER
Director of Insurance

COPY of the foregoing mailed/delivered this 30th day of October, 1992, to:

Felecia Rotellini, Esq.
Assistant Attorney General
1275 W. Washington
Phoenix, Arizona 85007

Joseph M. Hennelly, Jr., Deputy Director
Jay Rubin, Assistant Director
Maureen Catalioto, Supervisor
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1 Daniel T. Butner
733 West St. Andrews Blvd., #1047
2 Chandler, Arizona 85224

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Ana Tellez