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FLORIDA
DEPARTMENT OF
FINANCIAL SERVICES

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OFFICE OF
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OF COURTS

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TOM GALLAGHER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

AP

04-003871

JDP
CWS

MAR 8 2005

IN THE MATTER OF:

ALEJANDRO S. CONTRERAS

Docketed by:

CASE NO: 78547-04-AG

FINAL ORDER

THIS CAUSE came on for consideration and final agency action. On September 9, 2004, a Notice of Denial was issued by the Department of Financial Services denying the license application of the Petitioner, Alejandro S. Contreras, as a general lines insurance agent, because of his criminal history and failure to reveal it. The Petitioner timely filed a request for a proceeding, which was referred to the Division of Administrative Hearings in order to conduct a Section 120.57(1), Florida Statutes hearing. Pursuant to notice, the matter was heard before J. D. Parrish, Administrative Law Judge, Division of Administrative Hearings, on December 15, 2004.

After consideration of the record and argument presented at hearing, the Administrative Law Judge issued her Recommended Order on January 28, 2005. (Attached as Exhibit A). The Administrative Law Judge recommended that the Department enter a Final Order approving the application of the Petitioner.

Neither party filed exceptions to the Recommended Order.

Therefore, upon careful consideration of the entire record, the submissions of the parties, and being otherwise fully advised in the premises, it is ORDERED:

1. The Findings of Fact of the Administrative Law Judge are adopted in full as the Department's Findings of Fact.

2. The Administrative Law Judge neglects to make a Conclusion of Law in the Recommended Order relative to the waiting period provided for in Rule 69B-211.042, Florida Administrative Code when the time period for the underlying crime has run, but a waiting period is imposed for failing to fully disclose an applicant's criminal history. In order to clarify the waiting period provided for by said Rule in relation to the facts of this case, the following is added as Conclusion of Law #22:

Rule 69B-211.042(4), Florida Administrative Code provides that an applicant who fails to disclose a Class A or B crime that occurred more than 10 years prior to the date of application must wait one (1) year before reapplying for licensure. The waiting period is to run from the later of either the date the Department issued its Notice of Denial, or the date that a previously imposed waiting period expires. In the present case, the Petitioner's waiting period would run from the date the Department issued its Notice of Denial, since Petitioner's waiting period for the crime in question had already run. However, due to the other mitigating factors referenced in Finding of Fact #6 above, and in accordance with Rule 69B-211.042(10)(a) 6., Florida Administrative Code, the waiting period imposed should be reduced by a period of eight months. Even though the denial was correct at the time, because of the other mitigating factors and the de novo nature of this proceeding, the Petitioner is therefore now eligible for licensure.

This Conclusion of Law is as or more reasonable than the Administrative Law Judge's Conclusions of Law.

3. In all other respects, the Conclusions of Law of the Administrative Law Judge are adopted in full as the Department's Conclusions of Law.

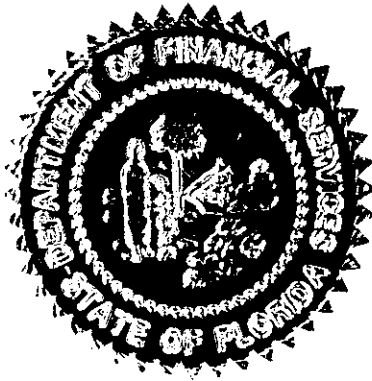
4. The Administrative Law Judge's recommendation that the Department enter a Final Order approving the application of the Petitioner is approved and accepted as being the appropriate disposition of this case.


ACCORDINGLY, it is ORDERED that Petitioner's, ALEJANDRO S. CONTRERAS', application for licensure as a general lines insurance agent in this State is hereby GRANTED.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of the Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla.R.App.P. Review proceedings must be instituted by filing a petition or Notice of Appeal with the General Counsel, acting as the agency clerk, at 200 East Gaines Street, Tallahassee, FL 32399-0333, and a copy of the same and the filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

DONE and ORDERED this 8th day of March, 2005.




KAREN CHANDLER
Deputy Chief Financial Officer

COPIES FURNISHED TO:

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