STATE OF ARIZONA

DEPARTMENT OF INSURANCE

In the Matter of	Docket No. 8576
BARRY ROBERT COLBERT,	ORDER
Petitioner.	

On December 20, 1994, a hearing took place in the above-referenced matter. Assistant Attorney General Peter H. Schelstraete appeared on behalf of the Arizona Department of Insurance ("Department"). Respondent Barry Robert Colbert ("Mr. Colbert") appeared in propria persona.

Based upon the entire record in this matter, including all pleadings, motions, testimony, and exhibits admitted during the hearing of this matter, Administrative Law Judge Gregory Y. Harris has prepared the following Findings of Fact, Conclusions of Law, and Order for consideration and approval by the Director of the Arizona Department of Insurance ("Director"). Based upon these recommendations, the Director makes the following Findings of Fact, Conclusions of Law and enters the following Order:

FINDINGS OF FACT

1. On August 12, 1994, Mr. Colbert filed an application (the "Application") with the Department seeking the issuance of a life and disability agent insurance license.

2. In 1953, Mr. Colbert began to work in the insurance field. Since that time, he has held licenses in Illinois and Arizona. Mr. Colbert allowed his Illinois license to expire in the late 1960's when he moved to Arizona. Mr. Colbert allowed the license previously issued to him in Arizona to expire in the mid

1970's when he ceased to be involved in the active sale of insurance. Mr. Colbert testified that when he held these insurance licenses, neither Illinois or Arizona took regulatory or disciplinary actions against the licenses he held.

3. Section F of the Application ("Section F") contains a series of questions concerning the background or history of an applicant. Mr. Colbert answered the following three questions contained in Section F in the affirmative:

a. "Have you ever been convicted of a misdemeanor?" Section F, Question 1.

b. "Have you ever been convicted of a felony?" Section F, Question 2.

c. "Have you ever been arrested, questioned, served a criminal summons, taken into custody, charged with, tried for, or ever been the subject of an investigation concerning the violation of any felony or misdemeanor, or are any charges now pending against you?" Section F, Question 3.

4. On or about October 23, 1981, the Maricopa County Superior Court found Mr. Colbert guilty of series of offenses, including conspiracy to sell a narcotic drug or marijuana, unlawful possession of a narcotic drug, and unlawful possession of marijuana for sale. See State of Arizona v. Barry Robert Colbert, Maricopa County Superior Court Cause No. CR-112469 ("State v. Colbert"). These offenses all related to conduct which occurred between March 23, 1979 and April 30, 1979.

5. The crimes committed by Mr. Colbert leading to his conviction in State v. Colbert constituted felonies. Further, these offenses involved the trafficking of illegal drugs for sale.

6. Under the law of this state, sale and trafficking offenses in marijuana and other illegal drugs constitute crimes of moral turpitude. State v. Marquardt, 161 Ariz. 206, 212, 778 P.2d 241, 247 (1989).

7. Between the date of his conviction in State v. Colbert and December 1984, Mr. Colbert was incarcerated and in the custody of the Arizona Department of Corrections.

8. Since his release from custody, Mr. Colbert has taken substantial steps to rehabilitate himself. He has also avoided any conduct or actions which would have brought him into contact with the law. His rehabilitation included work in-house for an insurer in Texas for more than two years.

9. Mr. Colbert made no effort to minimize the significance of or to deny his involvement or participation in these offenses. Further, Mr. Colbert did not in any way seek to conceal his record from the Director's consideration. Instead, he expressed his regret for the costs his acts imposed upon his family, those who relied upon him, to the people of Arizona, and to himself. He stated that he would never allow himself to be drawn back into similar behavior in the future.

10. Mr. Colbert's daughter, Charisse Colbert testified that in her judgment, her father has learned a valuable lesson from his experience. She stated that her father has reformed himself, and from his experiences stemming from his conviction, she believes that he would never commit acts similar to those resulting in his conviction and imprisonment in State v. Colbert.

11. More than 15 years have passed since the acts giving rise to his conviction in State v. Colbert. Further, ten

years have elapsed since his release from incarceration. In that time, Mr. Colbert, who is now 61 years old, has taken the steps and made the effort to demonstrate his ability to function in this society as a law-abiding citizen.

CONCLUSIONS OF LAW

1. Mr. Colbert has a record of conviction by final judgment of a felony involving moral turpitude within the meaning of A.R.S. §20-290(B)(6).

2. Mr. Colbert has met the burden imposed upon him by A.R.S. §§20-290, 20-291 and 41-1065 for the issuance of an insurance license.

ORDER

IT IS ORDERED:

The application submitted by Mr. Colbert for the issuance of a life and disability insurance agent license shall be approved, and a the requested license shall be issued.

DATED this 22nd day of December, 1994.

CHRIS HERSTAM
Director of Insurance

GREGORY Y. HARRIS
Chief Administrative Law Judge

NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Administrative Law Division within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R4-14-114(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.

COPY of the foregoing mailed/delivered
this 22nd day of December, 1994, to:

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