

STATE OF ARIZONA

OCT 26 1995

DEPARTMENT OF INSURANCE

DEPARTMENT OF INSURANCE  
By alc

1 In the Matter of )

Docket No. 95-171

2 JOHN PATRICK JOHNSTON, JR., )

**ORDER**3 Applicant. )  
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5 )  
6 \_\_\_\_\_ )

7 On October 17, 1995, a hearing took place in the  
8 above-referenced matter. Assistant Attorney General Gerrie  
9 Switzer appeared on behalf of the Arizona Department of Insurance  
10 ("Department"). Applicant John Patrick Johnston, Jr. ("Mr.  
11 Johnston") appeared unrepresented by counsel.

12 Based upon the entire record, including all pleadings,  
13 motions, testimony, and exhibits, Administrative Law Judge Lewis  
14 D. Kowal prepared the following Findings of Fact, Conclusions of  
15 Law, and Order for consideration and approval by the Director of  
16 the Department (the "Director"). The Director adopts and enters  
17 the following Findings of Fact, Conclusions of Law and enters the  
18 following Order:

19 **FINDINGS OF FACT**

20 1. On June 6, 1995, Mr. Johnston submitted to the  
21 Department an application for an individual life and disability  
22 insurance agent license (the "Application").

23 2. On July 11, 1995, the Department denied the  
24 Application.

25 3. On February 18, 1994, the Director of the  
26 Department entered an Order after hearing In the Matter of John  
27 Patrick Johnston, Jr., Docket No. 7790 (the "1994 Order")  
28 revoking the insurance licenses issued to Mr. Johnston.

1           4. In the 1994 Order, the Director found that the  
2 conduct of Mr. Johnston in representing Equity International  
3 Indemnity Company ("Equity") as an agent for the purpose of  
4 procuring surety bonds to be a conduct of affairs showing him to  
5 be incompetent under an insurance license in violation of A.R.S.  
6 §20-316(A)(7). It was determined that Mr. Johnston procured the  
7 surety bonds at a time when Equity did not have a certificate of  
8 authority to transact insurance business and was not an  
9 authorized surplus lines insurer. Further, it was determined  
10 that, at that time, Mr. Johnston believed that Equity was not  
11 subject to oversight regulation by the Department and that Mr.  
12 Johnston failed to determine the requirements for Equity to  
13 transact business in Arizona. The Director also found Mr.  
14 Johnston's conduct to be in violation of A.R.S. §20-401.01, the  
15 unlawful transaction of insurance business.

16           5. Mr. Johnston credibly testified at the hearing that  
17 approximately one year prior to the issuance of a Cease and  
18 Desist Order, Mr. Johnston stopped doing bond transactions. Mr.  
19 Johnston's voluntary cessation of bond transactions does not  
20 amount to an affirmative showing that Mr. Johnston is qualified  
21 to have an insurance license issued to him and does not negate  
22 the findings made by the Director in the 1994 Order.

23           6. In this proceeding, Mr. Johnston had the burden of  
24 proof to demonstrate his qualifications to have the Application  
25 granted and for the issuance of an individual life and disability  
26 insurance agent license. At the hearing, Mr. Johnston failed to  
27 prove that he qualified for the issuance of an insurance license.

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ORDER

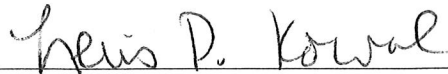
IT IS ORDERED:

Denying the June 6, 1995 application for an individual life and disability insurance agent license submitted to the Department by Applicant John Patrick Johnston, Jr.

EFFECTIVE this 25th day of October, 1995.



CHRIS HERSTAM  
Director of Insurance



LEWIS D. KOWAL  
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. 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.

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1 COPY of the foregoing mailed/delivered  
2 this 25th day of October, 1995, to:

3 Charles R. Cohen, Deputy Director  
4 Gregory Y. Harris, Executive Assistant Director  
5 John Gagne, Assistant Director  
6 Maureen Catalioto, Supervisor, Licensing  
7 Department of Insurance  
8 2910 N. 44th Street, Suite 210  
9 Phoenix, Arizona 85018

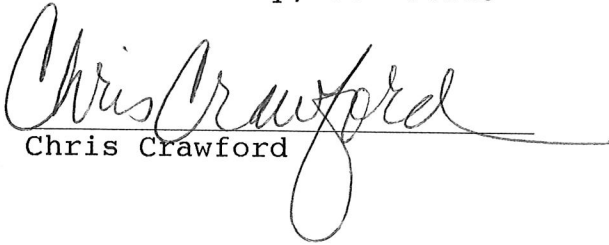
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27   
28 Chris Crawford