

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

IN RE THE APPLICATION OF:

ZURMYLES MULVEY



License Pending

ORDER ON HEARING

Docket No. 2010-104-LC

Enf. Case No. 2634

THIS MATTER concerning whether the Applicant’s application for an individual resident producer license should be denied came on to be heard before the Commissioner of the Utah Insurance Department (“Department”) on Tuesday, the 20th day of July, 2010, at 9:00 o’clock a.m., mountain time, with Mark E. Kleinfield, Administrative Law Judge, serving as the designated Presiding Officer.

Appearances:

M. Gale Lemmon, Assistant Attorney General, attorney for the Utah Insurance Department, 160 East 300 South, Fifth Floor, P.O. Box 140874, Salt Lake City, Utah 84114-0874.

The Applicant, Zurmyles Mulvey, failed to appear, either in person or through counsel.

Default:

Based on a motion made in hearing by the attorney for the Department, M. Gale Lemmon, Assistant Attorney General, and the failure of the Applicant to appear, the default of the Applicant was entered, and the Department proffered its evidence in this matter.

Exhibits:

The Department tendered the following items already a part of the administrative file:

1. Copy of Applicant's January 14, 2010 application.
2. Copy of Applicant's previous application dated September 23, 2009.
3. Utah Criminal History Record for Applicant dated January 21, 2010.
4. FBI Criminal History Record for Applicant as of January 21, 2010.
5. Two letters from the Applicant to Department licensing personnel regarding the answer to the criminal conviction question on the application, faxed to the department on January 25, 2010, and January 27, 2010, respectively.
6. Letter denying Applicant's application from Department dated January 27, 2010.
7. Applicant's request for a hearing dated February 9, 2010, and received in the Department offices on February 16, 2010.

The Department also offered seven (7) exhibits concerning traffic citations, and misdemeanor convictions of the Applicant, which were accepted and entered into the record. (SEE file).

The Presiding Officer, being fully advised in the premises and taking administrative notice of the files and records of the Department, now enters his *Findings of Fact, Conclusions of Law*, and *Order*, on behalf of the Department.

FINDINGS OF FACT

1. The Utah Insurance Department (“Department”) is a governmental entity of the State of Utah. The Department, as per Utah Code Annotated § 31A-2-101, is empowered to administer the Insurance Code, Title 31A, Utah Code Annotated, 1953, as amended.

2. The Applicant, Zurmyles Mulvey:

a. is a resident of the State of Utah and maintains a present residence of [REDACTED]

[REDACTED]; and

b. has not previously been nor is presently licensed by the Department as a resident producer to conduct or be engaged in the insurance business in the State of Utah.

3. The Applicant filed his application with the Department for an individual resident producer license on January 14, 2010.

4. The Applicant had filed a previous application with the Department for an individual producer license on September 23, 2009. That application expired after 45 days when the Applicant failed to provide requested information regarding his answer to the question in the application regarding criminal convictions.

5. The department denied the Applicant’s application for a Utah resident producer license in writing on January 27, 2010, for:

“Failure to meet the character requirement for licensing pursuant to Utah Code Annotated

§ 31a-23a-107.”

6. Said denial notified Respondent of her right to an “informal hearing” if a request is made in writing within fifteen (15) days.

7. The Applicant filed a request for a hearing with the department on February 16, 2010.

7. On July 6, 2010, a Notice of Conversion to Formal Proceeding and Notice of Hearing was issued and mailed to the Applicant the following day to the residence address provided in his Application.

8. Applicant’s conviction for Retail Theft, and Failure to Appear, class B misdemeanors on March 6, 2008, several convictions of driving on a revoked/suspended license, class C misdemeanors, and other misdemeanor convictions demonstrates that the Applicant does not have an appreciation for the rule of law and does not meet the character requirements of being competent and trustworthy.

Based on the forgoing Findings of Fact, the Presiding Officer now enters the following:

CONCLUSIONS OF LAW

1. The Applicant fails to meet the character requirements to hold an insurance agent’s license under Utah Code Annotated § 31A-23a-107(2).

2. The Department’s denial of the Applicant’s application for a resident producer license should be upheld.

Based on the preceding Findings of Fact and Conclusions of Law, the Presiding Officer enters the following:

ORDER

IT IS HEREBY ORDERED:

The denial of the Applicant Zurmyles Mulvey's application of a resident producer's license is upheld and his application is denied.

DATED this 9th day of September, 2010.

NEAL T. GOOCH
INSURANCE COMMISSIONER



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