

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

IN RE THE APPLICATION OF:

TIFFANI M. LEE
[REDACTED]

License Pending

ORDER ON HEARING
(Formal Hearing)

DOCKET No. 2012-027-LC
Enf. Case No. 3059

Mark E. Kleinfield,
Presiding Officer

STATEMENT OF THE CASE

THIS MATTER concerning whether the Applicant's application for an individual resident customer service representative license should be denied came on to be heard before the Commissioner of the Utah State Insurance Department ("Department") on Thursday, March 15, 2012 at 9:00 o'clock A. M. Mountain Time, with Mark E. Kleinfield, Administrative Law Judge, serving as designated Presiding Officer.

Said hearing being held at the Department's offices located at the Utah State Office Building, Room 3112, Salt Lake City, Utah 84114, having been convened at the designated time of 9:00 (9:15) A. M., March 15, 2012 and adjourned at 10:36 A. M. on said same day.

Appearances:

M. Gale Lemmon, Enforcement Counsel, Attorney for Utah State Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.

Tiffany M. Lee, Applicant, [REDACTED] pro se.

By the Presiding Officer:

Pursuant to a February 14, 2012 Notice of Conversion to Formal Proceeding and Notice of Hearing a Formal Hearing was conducted on March 15, 2012 in the above-entitled proceeding. The Applicant was present at that time.

The hearing was convened and conducted as a **formal hearing** in accordance with Utah Code Ann. Sections 63G-4-204, 63G-4-205, 63G-4-206, 63G-4-207 and 63G-4-208 and Administrative Rule R590-160-6.

ISSUE, BURDEN and "STANDARD OF PROOF"

1. The basic issue in the present matter is:

a. Was Applicant's application for a resident customer service representative's license improperly denied?

b. Has the Applicant presented sufficient evidence to show that the Department's denial was not justified on the record?

c. Has the Applicant presented sufficient evidence that would justify the reversal of such denial? (**SEE** Paragraph 2 under *DISCUSSION-ANALYSIS*.)

2. The "*burden of proof*" or "*burden of going forward*" as to the above issue(s) is on the Applicant.

3. As per Utah Administrative Code Rule, R590-160-5(10) as to the above and foregoing "issue(s)" or "question(s)" to be answered the "*standard of proof*" as to issues of fact as to both matters is to be proven by a "*preponderance of the evidence*".

Both parties waived an opening statement.

Thereafter, evidence was offered and received.

SUMMARY OF THE EVIDENCE

Witnesses:

For the Department:

1. Randy Overstreet, Director, Producer Licensing Division, Utah Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.

For the Applicant:

1. Tiffani M. Lee, Applicant.

2. Ed Lee, Father of Applicant.

3. Matt Hunter, Summit Insurance Group, present-prospective employer of Applicant.

All of whom were sworn and testified.

Exhibits:

The Department offered the following exhibits:

Prior to testimony the Department tendered the following items already part of the Administrative file:

1. Copy of Applicant's August 30, 2011 application.
2. October 20, 2011 letter of explanation from Applicant.
3. [REDACTED] regarding Applicant.
4. [REDACTED] regarding Applicant.
4. November 7, 2011 letter of denial from Department to Applicant.
5. Applicant's November 15, 2011 request for hearing.

SEE file.

Additionally the Department presented the following formal exhibits:

1. State's Exhibit No. 1, being [REDACTED]

[REDACTED] SEE FILE.

2. State's Exhibit No. 2, being [REDACTED]

[REDACTED] SEE FILE.

3. State's Exhibit No. 3, being [REDACTED]

[REDACTED] SEE FILE.

4. State's Exhibit No. 4, being [REDACTED]

[REDACTED] SEE FILE.

5. State's Exhibit No. 5, being [REDACTED]

[REDACTED] SEE FILE.

6. State's Exhibit No. 6, being copy of civil judgment against Applicant. SEE FILE.

7. State's Exhibit No. 7, being copy of civil judgment against Applicant. SEE FILE.

(No objection being made which exhibits were accepted and entered.)

The Applicant offered the following exhibits:

1. Applicant's Exhibit No. 1, consisting of one (1) page typewritten or printed page, being a copy of a compilation of [REDACTED] by Applicant.
2. Applicant's Exhibit No. 2, consisting of one (1) page typewritten or printed page, being a copy of Applicant's [REDACTED] [REDACTED]

(No objection being made which exhibits were accepted and entered.)

Argument followed.

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

I, find by a preponderance of the evidence, the following facts:

1. The Utah Insurance Department ("Department") is a governmental entity of the State of Utah. The Department as per Utah Code Ann. Section 31A-2-101 is empowered to administer the *Insurance Code*, Title 31A, Utah Code Ann., 1953, as amended.

2. The Applicant, Tiffani M. Lee:

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

b. has not been previously licensed by the Department in any licensed category to conduct or be engaged in the insurance business in the State of Utah.

3. The Applicant on or about August 30, 2011 filed her application with the Department for reinstatement and issuance of a resident "Customer Service Representative" license.

4. The Department on or about November 7, 2011 in writing denied Applicant's application for reinstatement and issuance of a Utah resident customer service representative individual license dated August 30, 2011" for the following reasons:

UCA 31A-23a-105 [REDACTED]

UCA 31A-23a-111(5)(b)(ix) – providing incorrect, misleading, incomplete, or materially untrue information in the license application;

UCA 31A-23a-111(5)(b)(iv) – failure to pay a final judgment rendered against you in this state;

UCA 31A-23a-105(1)(b)(vi) – committing an act that is a ground for denial of a license;

UCA 31A-23a-111(5)(b)(i) – unqualified for a license;

UCA 31A-23a-107 – failure to meet the character requirements for licensing.

5. That included in said denial were instructions informing Applicant of her right to an “*informal hearing*” if a timely request is made in writing within fifteen (15) days. (SEE Administrative File.)

6. The Applicant under date of November 15, 2011 filed her “*request for hearing*” with the Department on November 16, 2011. (SEE Administrative File.)

7. That based on the preliminary facts as set forth in paragraphs 1 through 6, immediately above, through means of a February 14, 2012 “Notice of Conversion to Formal Proceeding and Notice of Hearing”, mailed to the Applicant at her referenced address on February 15, 2012, this present hearing was set for March 15, 2012 at 9:00 A. M..

DISCUSSION-ANALYSIS

1. a. Both the Applicant and the Department in large measure while advocating somewhat different characterization or interpretation of the above referenced facts in substance concurred as to the basic *chronology* and core facts.

b. The record now being complete sets forth competent and credible evidence for the entry of the following analysis.

2. a. Applicant at the hearing openly acknowledged her [REDACTED]

b. Without elaborating [REDACTED] in the Applicant’s [REDACTED] [REDACTED] starting in July 2006 through [REDACTED] (SEE State Exhibit No.s 1 through 5 as well as [REDACTED] and [REDACTED])

[REDACTED] filings in the department's case file), with such involving initially [REDACTED].

c. the Applicant failed to disclose such on her August 30, 2011 application, although she filed a later October 20, 2011 abbreviated letter of explanation.

3. a. The record before the Presiding Officer shows two (2) outstanding civil judgments (SEE State Exhibit Nos. 6 and 7).

4.

b. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. The Hearing Officer had an opportunity to observe the Applicant. The Applicant appears more than of average intelligence.

7. a. While when listening to the whole individual and family history over the past approximate five (5) to seven (7) plus years and while emphathizing on a human level it is clear the [REDACTED] cannot be wished aware or blanketly forgiven as the Applicant, Applicant's father and Applicant's present-prospective employer would desire. The Applicant clearly did not show the wisdom and basic competence one needs to possess to be in the insurance business. The Applicant presented herself as one while as stated of above average intelligence one that was and is easily self-manipulated to her and her possible future clients detriment. The Department in licensing the Applicant or any individual in comparable circumstances to the Applicant would be breaching its responsibilities to the public. The Presiding Officer heard the witnesses and reviewed the documentary evidence. While good intent by the Applicant may well be present the Presiding Officer can only look at and weigh the present evidence before him. In such weighing the Applicant is found wanting.

b. Here in the **present** instance the burden is/was on the Applicant to:

i. **Present** sufficient evidence to show that the Department's denial was not justified on the record; and

ii. **Present** sufficient evidence that would justify the reversal of such denial.

c. This the Applicant has failed to fully do.

d. The Applicant's August 30, 2011 application was properly denied based on the record before the Department.

BASED ON THE ABOVE AND FOREGOING FINDINGS OF FACT and discussion-analysis the Presiding Officer enters the following:

CONCLUSIONS OF LAW

1. The Department's "letter of denial" under date of November 7, 2011 should be sustained.

2. The Applicant's August 30, 2011 application for licensure as a resident "Customer Service Representative" should be denied.

AND BASED ON THE ABOVE AND FOREGOING CONCLUSIONS OF LAW

the Presiding Officer enters the following:

ORDER

WHEREFORE, IT IS ORDERED that:

1. The Department's "letter of denial" under date of November 7, 2011 is **sustained**; and

2. The Applicant's August 30, 2011 application for a resident "Customer Service Representative" individual license is **denied**.

DATED and ENTERED this ^{rk} 20 day of March, 2012.

**NEAL T. GOOCH,
INSURANCE COMMISSIONER**




MARK E. KLEINFELD

ADMINISTRATIVE LAW JUDGE and
PRESIDING OFFICER

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ADMINISTRATIVE AGENCY REVIEW

Administrative Agency Review of this Order may be obtained by filing a Petition for Review with the Commissioner of the Utah Insurance Department within thirty (30) days of the date of entry of said Order consistent with Utah Code Ann. Section 63G-4-301 and Administrative Rule R590-160-8.

Failure to seek agency review shall be considered a failure to exhaust administrative remedies.

(R590-160-8 and Section 63G-4-401)

JUDICIAL REVIEW

As an **"Formal Hearing"** after agency review judicial review of this Order may be obtained by filing a petition for such review consistent with Utah Code Ann. Section 63G-4-403.
