

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

IN RE THE APPLICATION OF:

PAMELA K. TAYLOR
1434 North 840 West
Pleasant Grove, UT 84062

License No. 78492

ORDER ON HEARING
(Formal Hearing)

DOCKET No. 2012-028-LC
Enf. Case No. 3073

Mark E. Kleinfield,
Presiding Officer

STATEMENT OF THE CASE

THIS MATTER concerning whether the Applicant's application for reinstatement as an individual resident producer license should be denied came on to be heard before the Commissioner of the Utah State Insurance Department ("Department") on Wednesday, March 7, 2012 at 1:30 o'clock P. 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 1:30 (1:56) P. M., March 7, 2012 and adjourned at 2:13 P. 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.

Pamela K. Taylor, Applicant, 1434 North 840 West, Pleasant Grove, Utah 84062, 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 7, 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 reinstatement for a resident producer'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. Cathy Burton, Licensing Specialist, Producer Licensing Division, Utah Insurance Department, State Office Building, Room 3110, Salt Lake City, Utah 84114.

For the Applicant:

1. Pamela K. Taylor, Applicant.

2. Theora Kennard, mother 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 November 8, 2011 application for reinstatement.
2. November 8, 2011 letter and attachments of explanation from Applicant.
3. UID Licensure History of Applicant printed on November 29, 2011
4. November 29, 2011 letter of denial from Department to Applicant.
5. Applicant's December 8, 2011 request for hearing.

SEE file.

Additionally the Department presented the following formal exhibits:

1. State's Exhibit No. 1, consisting of seventeen (17) typewritten or printed pages, being a copy of a 4th District Court – Provo, Utah County, State of Utah docket/case number 101400004, printed on October 26, 2011 concerning the Applicant regarding an original 19 County felony information allegedly committed on August 7, 2008, opened on May 24, 2010.

(No objection being made which exhibit was accepted and entered.)

The Applicant offered the following exhibits:

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, Pamela K. Taylor:

a. is a resident of the State of Utah and maintains a present residence of 1434 North 840 West, Pleasant Grove, Utah 84062;

b. was previously licensed by the Department as a resident “Producer” to conduct or be engaged in the insurance business in the State of Utah; and

c. her license “lapsed” as of September 30, 2011

3. The Applicant on or about November 8, 2011 filed her application with the Department for reinstatement and issuance of a resident “*Producer*” license.

4. The Department on or about November 29, 2011 in writing denied Applicant's application for reinstatement and issuance of a Utah resident producer individual license dated November 8, 2011” for the following reasons:

UCA 31A-23a-105(1)(b)(ii) – failure to satisfy the character requirements under UCA 31A-23a-107;

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

UCA 31A-23a-111(5)(b)(i) – is unqualified for a license under UCA 31A-23a-104, 105 or 107.

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 December 8, 2011 filed her “*request for hearing*” with the Department on December 12, 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 7, 2012 at 1:30 P. 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 previous criminal conviction(s);

b. Applicant plead “no contest” to 2 class A misdemeanors and “guilty” to 1 class A misdemeanor on May 24, 2010;

c. the Applicant disclosed such on her November 8, 2011 reinstatement application with a detailed written explanation.

3. a. The record before the Presiding Officer shows an outstanding restitution order which while in favor of the Applicant’s mother who testified in Applicant’s favor at the hearing is still outstanding and a statutory impediment.

b. additionally the plead to offenses are clearly dealing with trust and honesty and while somewhat “explained” are not to be and cannot be minimized.

6. The Hearing Officer had an opportunity to observe the Applicant. The Applicant appears more than of average intelligence and by her testimony is presently engaged in numerous ad hoc jobs in an effort to meet her court ordered restitution.

7. a. While when listening to the whole history of over five (5) plus of being both a “victim” and an arguably emotional perpetrator rather than an intention one it is clear the Applicant’s culpability cannot be wished aware or forgiven as the Applicant’s mother 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 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 November 8, 2011 application for reinstatement 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 29, 2011 should be sustained.

2. The Applicant's November 8, 2011 application for reinstatement for licensure as a resident "*Producer*" 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 29, 2011 is **sustained**;
and

2. The Applicant's November 8, 2012 application for reinstatement as a resident "*Producer*" individual license is **denied**.

DATED and ENTERED this 12 day of March, 2012.

NEAL T. GOOCH,
INSURANCE COMMISSIONER



MARK E. KLEINFELD
ADMINISTRATIVE LAW JUDGE and
PRESIDING OFFICER

Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, Utah 84114
Telephone: (801) 537-9246
Facsimile: (801) 538-3829
Email: MKleinfeld@utah.gov

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.

ADMINH.Esplin.Formal.dec.03-xx-12

CERTIFICATE OF MAILING

I do hereby certify that on this date I mailed, by regular mail, postage prepaid a true and correct copy of the attached:

ORDER ON HEARING

To the following:

Pamela K. Taylor
1434 N 840 W
Pleasant Grove, UT 84062

DATED this 12th day of March, 2012



Linda Hardy
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114-6901