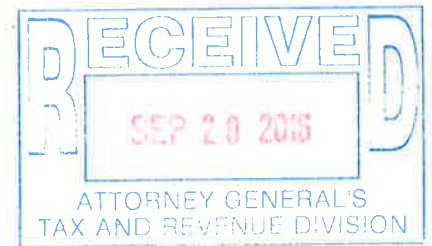


UTAH INSURANCE DEPARTMENT
State Office Building Suite 3110
Salt Lake City, Utah 84114-6901



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

<p>UTAH INSURANCE DEPARTMENT, Complainant, SHANTEL L. FOX aka Shantel L. Hatanaka, Respondent.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DOCKET NO. 2016-71 PC</p>
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This matter was heard before the Presiding Officer on September 13, 2016. The Department of Insurance was represented by Gary D. Josephson and the Respondent was represented by Walter F. Bugden, Jr. The Respondent was present throughout the hearing. Based upon the testimony of the witnesses and the argument of counsel, the Presiding Officer enters the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. The Respondent, Shantel L. Fox, made application on May 10, 2016 for a resident producer individual license in order to sell insurance in the State of Utah.
2. By letter dated May 18, 2016 (Dept. Ex 1), the Department of Insurance, through the Director of the Producer Licensing Division, denied the application. The denial was based upon UCA 31A-23a-107 which provides for a trustworthy character requirement

for licensing and upon U.C.A. 31A-23a-111(5)(b) which provides other grounds for which a person may be unqualified for a license.

3. Respondent had previously held a license with the Department of Insurance from 2005 until she voluntarily let it lapse and did not renew it in 2009 (Resp. Ex A).
4. In 2010, after a period of misfortunate and regrettable personal, emotional and financial reversals, the Respondent filed two fraudulent insurance claims for herself and then filed a third fraudulent claim in the name of a personal friend. These fraudulent actions were detailed in a May 2011 Report of Interview of the Respondent by the Fraud Division of the Department of Insurance (Dept. Ex 5), and in the Probable Cause Statement contained in the criminal Information filed in the Third District Court for the State of Utah (Resp. Ex B). In the hearing, the Respondent acknowledged the truthfulness of the recitation of facts in the two referenced documents.
5. Respondent abjectly regrets these actions and has exerted considerable efforts to redirect the course of her life, and to counteract the consequences of these actions and decisions that she wishes were not part of her life.
6. Respondent paid her criminal fine, performed her community service and her probation period was terminated early by the Court on April 23, 2013.
7. The Director of the Producer Licensing Division has held the position of Director for approximately ten years. He handles, on average, one or two denials of licenses each month. A significant portion of these (though less than one half), are denied on the grounds of trustworthiness under U.C.A. 31A-23a-107.
8. It has been the practice of the Department of Insurance to deny a license to anyone who has applied for a license within five years of the completion of criminal proceedings,

including the period of probation. Granting approval of a license application by Respondent prior to May of 2018 would be an anomaly. There is no assurance that even after five years that a license will be granted, depending in each case on the circumstances and gravity of each situation.

9. Although there may be varied grounds upon which an application is denied because of the trustworthy character requirement, the Division determined that the Respondent's actions were particularly egregious and merited a denial, because they were in the specific domain of insurance and insurance fraud. Further, these fraudulent actions and forgeries were undertaken by someone who had already been licensed by the Department of Insurance.
10. In making its determination of denial of the license, the Division took into consideration several factors, which included matters listed in U.C.A. 31A-23a-111(5)(b), each of which alone could be the basis for a denial of the license application. This code section provides that the Commissioner of the Department of Insurance may deny a license application if the applicant "is convicted of a felony," "admits or is found to have committed an insurance . . . fraud," or "forges another's name to . . . a document related to an insurance transaction . . ." ¹
11. Respondent committed all of the former listed actions on multiple occasions in calendar year 2010. These actions included filing two fraudulent insurance claims for herself and then filing a third fraudulent insurance claim, impersonating a friend. In doing so, the Respondent forged the name of her friend on documents related to the insurance transaction, and created other documents regarding the purchase and value of an item

¹ Subparts (xiv), (xv) and xviii (B) of U.C.A. 31A-23a-111(5)(b).

which was the subject of the fraudulent claims, attributing the origin of the documents to third parties. These activities of the Respondent resulted in (a) a criminal action being filed against the Respondent in the Third District Court for the State of Utah on nine felony charges, and (b) a plea bargain to two of the felony convictions. Subsequent to a court ordered probation and the payment of a fine, these two felony convictions were reduced to misdemeanors.

CONCLUSIONS OF LAW

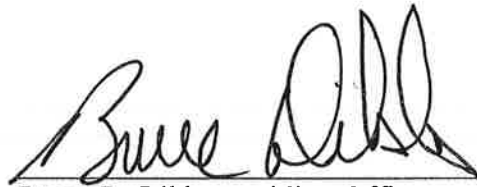
In addition to the legal conclusions inherent in the foregoing findings, the Presiding Officer makes the following conclusions of law:

- A. The particular criminal actions of the Respondent call into question her trustworthiness, which is one of the two foci of U.C.A. 31A-32a-107(2)(a).
- B. The denial of the application for a license was warranted on the basis of U.C.A. 31A-32a-107 and U.C.A. 31A-32a-111(5)(b).
- C. It may be that the Respondent may never be able to secure an insurance license. That is not the issue here and need not be the determination made at this time. The value of uniformity of practice is important, and the Respondent should not be singled out for harsher treatment than others similarly situated. However, if the Division were to approve this application at this time, the inverse would be true. In such circumstance, there would be no reliable criteria for approving or denying a license on the trustworthy character requirement if a person in the position of the Respondent were granted a license at this juncture, in light of the relevance and gravity of the untrustworthy actions in this matter (i.e. insurance fraud, forgery and felony conviction).

ORDER

The denial of the application for licensure of the Respondent is affirmed.

DATED September 16th, 2016.



Bruce L. Dobb, Presiding Officer

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. § 63G-4-401 and Administrative Rule 590-160. Failure to seek agency review shall be considered a failure to exhaust administrative remedies. Utah Admin. Code R590-160-8; Utah Code Ann. § 63G-4-403.

JUDICIAL REVIEW

Judicial review of this Order may be obtained by filing a petition consistent with Utah Admin. Code R590-160-8 and Utah Code Ann. § 63G-4-403.