
STATE OF UTAH
DEPARTMENT OF INSURANCE

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

JUSTIN COMPANION,
Insurance License Applicant,

Respondent.

ORDER

Docket No. 2017-087 LC

E. No. 3937

Administrative Law Judge

Lisa Watts Baskin

This matter came before the undersigned on December 14, 2017, for a license denial hearing. Mr. Justin Companion, respondent, appeared *pro se*. Mr. Josh Nelson, Assistant Utah Attorney General, appeared for the Utah Insurance Department (hereafter "Department"). The administrative hearing was held as a formal proceeding pursuant to the September 29, 2017 Order of Conversion to Formal Proceeding. The matter was recorded.

PROCEDURAL BACKGROUND

Respondent filed a timely, written hearing request to challenge the Utah Insurance Commissioner's license denial of his application for a resident producer individual license, which was denied on two grounds: Utah Code Subsections 31A-23a-107(2)(a) (2014) and 31A-

23a-111(5)(b)(i) (2016). The denial was dated September 5, 2017. Respondent's request for hearing was filed timely on September 21, 2017.

Both parties stipulated that documents, exhibits and witness identifications would be exchanged by either party within seven (7) days of the hearing which was provided in the Scheduling Order, dated November 16, 2017.

Based on the foregoing, on Complainant's exhibits and witness testimony, and on Respondent's testimony, the undersigned makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On August 12, 2017, Respondent Justin Companion, a resident of Utah, filed a written application with the Department for a resident limited line producer individual license. Complainant Ex. 1, Application.
2. Respondent's application was denied on September 5, 2017, based upon the record of his guilty pleas to: a Class A Misdemeanor False or Fraudulent Insurance Claim under Utah Code § 76-6-521 (1)(b) (2004), offense date of September 17, 2014; and a Class B Misdemeanor False or Fraudulent Insurance Claim under the same statutory section, offense date of November 19, 2014. His guilty pleas to the two charges were entered on May 3, 2016. Complainant Ex. 2, Third District Court – West Jordan, State v. Justin Companion.
3. On September 5, 2017, the department's denial letter referenced statutory grounds for denial: Utah Code Ann. Subsections 31A-23a-107(2)(a) (2014) and 31A-23a-111(5)(b)(i) (2016). Complainant Ex. 4, Denial Letter.

4. Respondent Companion provided oral testimony to the court regarding his trustworthiness and character. R. at 7:35-8:04. He testified he was a United States Marine from 2007-2011, who was deployed to Afghanistan multiple times and served his country honorably. He testified about his work patterns, his healthy lifestyle and beliefs, his wife and family, his loyalty and diligence in providing for his family, and his overall good character. Respondent's Request for Hearing Letter, R. at 4:54-7:35.
5. He testified about his criminal convictions and that these crimes were his first and only interaction with the criminal justice system. R. at 6:07-6:22; 10:17-10:31.
6. Complainant's witness, Randal Overstreet, Director, Producer Licensing Division, testified about the insurance fraud crimes and their direct relevance to the statutory licensure requirement of trustworthiness in the insurance industry. He also testified to the department's unwritten guideline or standard that there exists a pattern where no act of dishonesty has occurred for a span of five years since the date of the offense. R. at 11:30-12:14; 21:18-21:47; 25:42-26:41.
7. Mr. Overstreet testified and read into the record the relevant statutory provisions upon which he relied to make his denial decision. Complainant Ex. 3, R. at 16:39-19:20.
8. Mr. Overstreet testified that he evaluates "trustworthiness" based upon incidents involving dishonesty, such as a Respondent's misdemeanor convictions for false or fraudulent insurance claims. These convictions were particularly relevant to respondent's inability to demonstrate trustworthiness. R. at 20:04-21:18.

9. Respondent admitted he voluntarily entered two pleas of guilty on May 3, 2016, having been represented by a public defender and sentenced to probation,. R. at 9:18-10:02; 33:03.
10. Respondent testified that he believed he had committed only one offense, connected to a fraudulent property insurance claim he filed. R. at 10:31-11:01. However, he later clarified that two fraudulent claims were filed on two separate pieces of equipment, with the same insurance provider but on different dates. R. at 10:46-11:15.
11. Respondent testified about recent changes in work requirements at his used automobile sales job wherein GAP insurance is intended to be offered. His employer and one co-worker obtained their licenses to sell insurance. The employer requested Companion to obtain his resident producer limited license to sell automobiles with the coverage. R. at 6:51-7:20; 28:53-29:53. He testified that he would lose commission sales without the license to sell GAP insurance. R. at 31:35-32:04.
12. Based upon the evidence presented at the hearing, Respondent failed to prove by a preponderance of evidence that his insurance application was improperly denied. Utah Admin. Code R590-160-5(10). By a preponderance of evidence, Complainant conversely proved by a preponderance of evidence that the insurance application was properly denied.

CONCLUSIONS OF LAW

1. The department has jurisdiction over the parties and subject matter of this administrative action. Utah Code Ann. §§ 31A-1-105 (2000); 31A-2-201 (2010); 63G-

4-201 (2010); Title 31A, Chapter 23a, Part 100, Utah Code; and Utah Admin. Code, R590-160.

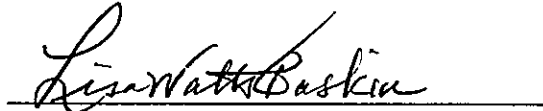
2. Respondent, in being convicted of one Class A misdemeanor and one Class B misdemeanor, pursuant to Utah Code § 76-6-521 (2004), is prohibited from engaging in the business of insurance.
3. Respondent failed to satisfy the burden of proof that he can meet the statutory requirements of Utah Code Ann. §§ 31A-23a-107(2)(a) and 31A-23a-111 (5)(b)(i).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge hereby enters the following Order:

The department's denial of Respondent's application for a resident producer individual license is upheld.

DATED this 5th day of January, 2018.



LISA WATTS BASKIN
Administrative Law Judge
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114

AGENCY REVIEW

To appeal this Order, a party must file a petition for agency review within 30 days from the date of this Order. Petitions for agency review shall be filed in accordance with Utah

Code Ann. § 63G-4-301 and filed with the commissioner in writing or electronically at uidadminscases@utah.gov. Failure to file a petition for agency review is a failure to exhaust administrative remedies and will result in the order becoming final.


CERTIFICATION OF SERVICE

The undersigned hereby certifies that on this date, a true and correct copy of the **ORDER** was electronically served or mailed, postage prepaid, to the following:

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Dated this 5th day of January, 2018.



Jeanne Mitchell

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