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**STATE OF UTAH**  
**DEPARTMENT OF INSURANCE**

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**UTAH INSURANCE DEPARTMENT,**

Complainant,

vs.

**SAMANTHA JOHNS,**  
**Insurance License Applicant,**

Respondent.

**ORDER**

Docket No. 2017-097 LC

E. No. 3945

Administrative Law Judge

Lisa Watts Baskin

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This matter came before the undersigned on November 29, 2017, for a license denial hearing. Ms. Samantha Johns, respondent, appeared *pro se*. Mr. Josh Nelson, Assistant Utah Attorney General, appeared for the Utah Insurance Department. The administrative hearing was held as a formal proceeding pursuant to the October 27, 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 her 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)(ix) (2016). The denial was dated October 2, 2017. Respondent's request for hearing was filed timely on October 17, 2017.

Both parties stipulated that documents or exhibits would be exchanged by either party within ten (10) days of the hearing which was provided in the Scheduling Order, dated November 3, 2017.

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

#### **FINDINGS OF FACT**

1. On August 30, 2017, Respondent Samantha Johns, a resident of Utah, filed a written application for a resident limited line producer individual license. Complainant Ex. 1, Application.
2. Respondent's application was denied on October 2, 2017, based upon a record of her plea of guilty to Class B Misdemeanor Retail Theft (Shoplifting) under Utah Code § 76-6-602 (1979) which crime occurred on May 17, 2014. Her guilty plea was entered on September 16, 2015. Complainant Ex. 2, South Jordan City v. Johns.
3. Respondent's application was also denied on October 2, 2017, based upon her providing misinformation in the application wherein she denied her prior misdemeanor conviction. Complainant Ex. 1, Application, pp. 3-4.
4. On October 2, 2017, the department's denial letter referenced both statutory grounds for denial: Utah Code Ann. Subsections 31A-23a-107(2)(a) (2014) and 31A-23a-111(5)(b)(ix) (2016). Complainant Ex. 4, Denial Letter.
5. Complainant's witness, Randy Overstreet, Director, Producer Licensing Division, testified about the recency of respondent's criminal conviction and to the

department's unwritten guideline or standard that there exist a pattern where no act of dishonesty has occurred for a span of five years. R. at 13:45-14:40, 17:02-17:57.

6. Complainant's witness testified that the character requirement for licensure of "trustworthiness" is evaluated based upon incidents involving dishonesty, such as a Respondent's misdemeanor conviction of theft for shoplifting, which would demonstrate untrustworthiness. R. at 15:51-17:02.
7. Respondent Johns provided written evidence and oral testimony to the court regarding her trustworthiness but lack of attention that resulted in her supplying misinformation on her application. She also provided the written testimonies of three supervising managers at her workplace, Ken Garff Nissan SLC. These witnesses identified her strong work ethic, punctuality, professionalism, reliability, team leadership skills, and trustworthiness. Respondent Ex. 1, Letters.
8. Respondent provided evidence of ongoing promotions and positive employee evaluations, spanning from June 25, 2015 to July 28, 2017. Respondent Ex. 2.
9. Respondent admitted to the court that she was convicted of a Class B misdemeanor and failed to disclose this information on her application. R. at 23:51-24:07.
10. Based upon the evidence presented at the hearing, Respondent failed to prove by a preponderance of evidence that her insurance application was improperly denied. Utah Admin. Code R590-160(10). By a preponderance of evidence, Complainant conversely proved by a preponderance of evidence that the insurance application was properly denied on two separate grounds.

## 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 a Class B misdemeanor, and in providing incorrect, misleading, incomplete or materially untrue information on her license application, is prohibited from engaging in the business of insurance.
3. Respondent failed to satisfy the burden of proof that she can meet the statutory requirements of Utah Code Ann. §§ 31A-23a-107(2)(a) and 31A-23a-111 (5)(b)(ix).

## 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 1<sup>st</sup> December, 2017.



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