
STATE OF UTAH
DEPARTMENT OF INSURANCE

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

MICHAEL LYNN PALMER,
Insurance License Applicant,

Respondent.

ORDER

Docket No. 2017-104 LC

E. No. 3952

Administrative Law Judge
Lisa Watts Baskin

This matter came before the undersigned on January 10, 2018, for a license denial hearing. Mr. Michael Lynn Palmer, respondent, appeared *pro se*. Ms. Perri Ann Babalis, Assistant Utah Attorney General, Complainant, appeared for the Utah Insurance Department (hereafter "Department"). The administrative hearing was held as a formal proceeding on the merits pursuant to the November 16, 2017 Order of Conversion to Formal Proceeding. The matter was recorded.

PROCEDURAL BACKGROUND

Respondent filed a timely, written hearing request on November 13, 2017, to challenge the Utah Insurance Commissioner's denial of his resident producer individual license, which was dated October 25, 2017. Respondent's application for a resident producer individual license

was denied on numerous grounds: Utah Code Subsections 31A-23a-111(5)(b)(i), (iv), (xiv), (xxi), (xxii),(xxiii) and 18 U.S.C. § 1033.

Based on the foregoing, on Complainant's exhibits and witness testimony, and on Respondent's testimony and affidavit, the undersigned makes the following Findings of Fact, Conclusions of Law, and Order. The undersigned UPHOLDS the Department's denial of license.

FINDINGS OF FACT

1. On October 9, 2017, Respondent Michael Palmer, a resident of Utah, filed a written application with the Department for a resident producer individual license.¹

FELONY CONVICTIONS

Utah Code Subsection 31A-23a-111(5)(b)(xiv)

2. Respondent's application was denied on October 25, 2017, based upon the record of his guilty pleas to six third degree felonies, and a guilty plea to a Class B misdemeanor.² The criminal convictions included: two charges of Identity Fraud under Utah Code § 76-6-1102; two charges of Falsely Obtaining/Dispensing Prescription pursuant to Utah Code § 58-37-8(3)(a)(ii); two charges of Possession or Use of A Controlled Substance under Utah Code § 58-37-8(2)(a)(i); and one charge of Possession of Forged Writing or Device for Writing pursuant to Utah Code § 76-6-502. The final disposition of guilt was entered on March 7, 2014.

FAILURE TO PAY FINAL JUDGMENT

¹ Complainant Ex. 1, Application.

² Complainant, Ex. 4B, Fourth District Court – American Fork, State v. Palmer.

Utah Code Subsection 31A-23a-111(5)(b)(iv)

3. Respondent's application was denied as a result of his failure to pay a final judgment within 60 days after the day the judgment became final against him.³

FAILURE TO PAY STATE INCOME TAX

Utah Code Subsection 31A-23a-111(5)(b)(xxii)

4. Respondent's application was denied as a result of his failure to pay a state income tax or to comply with a court order directing payment of the state tax.⁴

FAILURE TO PAY CHILD SUPPORT

Utah Code Subsection 31A-23a-111(5)(b)(xxi)

5. Respondent's application was denied as a result of his failing to comply with an administrative or court order imposing a child support obligation.⁵

FAILURE TO MEET CHARACTER REQUIREMENT OF TRUSTWORTHINESS

Utah Code Subsection 31A-23a-111(5)(b)(xxiii)

6. Respondent's application was denied as a result of being convicted of a felony involving dishonesty and therefore prohibiting him from engaging in the business of insurance under 18 U.S.C. § 1033.⁶
7. The Department's denial letter made reference to all the foregoing statutory grounds with accompanying court records, explaining with detail the basis for the Commissioner's decision.⁷

³ Complainant, Ex. 8, Fifth District Court—St. George, Workforce Services v. Palmer, (July 12, 2016).

⁴ Complainant's Ex. 5, Ex. 7, Fourth District Court – Provo, Utah State Tax Commission v. Palmer (Tax Lien: July 24, 2017); (Garnishment: August 10, 2017).

⁵ Complainant's Ex. 6, Fourth District Court – Provo, State of Utah ORS v. Palmer (Child Support Lien, October 4, 2017); Ex. 9, Fifth District Court – St. George, State of Utah ORS v. Palmer (Child Support Lien, October 4, 2017).

⁶ Complainant's Ex. 2.

8. Respondent Palmer gave sworn testimony to the court, orally and by affidavit, which he read into the record.^{8 9}
9. Respondent testified orally about his work history from 2006-2014, where he worked as a licensed producer in the insurance industry in Utah.¹⁰ He described his abuse of prescription drugs, starting in 2012, which “destroyed” his career, marriage, family, licensures, and freedom.¹¹
10. Respondent testified about his tremendous personal and professional growth since his convictions. He described his significant efforts to repair the damage caused by his drug addiction, to regain and maintain his sobriety, and to move forward with his life, including his present employment and pending marriage.¹² Respondent testified that he had no pending criminal charges, no unpaid criminal court costs or fines, and no incomplete terms of his sentencing.¹³ Respondent later clarified that he has paid all child support obligations but is still making incremental payments on the tax lien.¹⁴
11. Respondent testified as to his efforts to expunge his criminal records through the help of California counsel.¹⁵

⁷ Complainant Ex. 2, Denial Letter.

⁸ R. at 7:07-8:42; 11:23-13:36, Part II. Respondent’s Ex. 6, Affidavit of Michael L. Palmer, Case No. 131100984.

⁹ A brief recess was taken for Respondent to locate his prepared affidavit. Two affidavits were admitted into evidence and marked as Exhibits 5 and 6.

¹⁰ R. at 00:37-00:50, Part II.

¹¹ R. at 00:58-1:12, Part II.

¹² Respondent’s Ex. 6, Affidavit, ¶¶ 6, 7, 8, 9, 11.

¹³ R. at 1:25-2:00, Part II.

¹⁴ Respondent’s Ex. 6, Affidavit, ¶¶ 1, 2, 3, 4, 5; R. at 11:23-13:36, 15:19-18:22, Part II.

¹⁵ Respondent, Ex. 1, Letter from Counsel; R. at 1:58-2:05; 19:22-19:30, Part II.

12. Complainant's witness, Randal Overstreet, Director, Producer Licensing Division, testified about the Department's protocols in reviewing license applications and his personal review of court records which revealed seven criminal convictions and other civil court orders regarding debt, child support, and income tax payments.^{16 17}
13. Mr. Overstreet testified about the relevant criminal and insurance statutes which were applied to the facts in his denial decision.¹⁸
14. Mr. Overstreet testified that pursuant to 18 U.S.C. § 1033, as a result of being convicted of a felony involving dishonesty, one is prohibited for life from engaging in the insurance business, unless a specific waiver is obtained from the Commissioner.¹⁹
15. Based upon the evidence presented at the formal hearing, Respondent failed to prove by a preponderance of evidence that his insurance application was improperly denied. Utah Admin. Code R590-160-5(10).

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-

¹⁶ Complainant's Ex. 4B; R. at 20:22-23:14; 24:15-38:54, Part II.

¹⁷ However, in Respondent's License Application, he admitted he had a felony conviction but intentionally misrepresented that he had no other misdemeanors, no delinquent tax obligations, no insurance job termination, and no child support obligation arrearages. These incorrect, misleading, incomplete, or materially untrue statements were all relevant factors to Mr. Overstreet in denying the license application. Complainant's Ex. 1; R. at 40:28-52:25. Although raised *sua sponte* by the court, this finding alone that Respondent failed to answer truthfully on the license application as required in Utah Code Subsection 31A-23a-213(5)(b)(ix) should warrant denial of a license application.

¹⁸ Complainant Ex. 4B; R. at 24:15-38:54.

¹⁹ R. at 37:27-38:41; Complainant's Ex. 2, Utah Code Subsection § 31A-23a-111 (5)(b)(xxiii).

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

2. Respondent, in being convicted of multiple crimes, including six felonies, is prohibited from engaging in the business of insurance.
3. Respondent, in being issued court orders for unpaid child support, state income tax, and delinquent debts, is denied licensure.
4. Respondent, in providing incorrect, misleading, incomplete, or materially untrue information in the license application is denied licensure.
5. 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 12th day of April, 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.