
BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

PHONEXAY PHOUANGPHRACHAN



Respondent.

NOTICE OF AGENCY ACTION AND
ORDER

Docket No. 2018-4006

Lisa Watts Baskin
Presiding Officer

NOTICE OF AGENCY ACTION

The Utah Insurance Department (“the Department”) commences this agency action against Respondent Phonexay Phouangphrachan (“Respondent”) pursuant to Utah Code §§ 31A-2-201 and 63G-4-201 through 203 and to Utah Admin. Code R590-160.

This agency action is based on the facts and law set forth in the attached Declaration and is designated as an informal adjudicative proceeding pursuant to Utah Code § 63G-4-202(1) and Utah Admin Code R590-160-4 and 7.

ORDER

Based on the facts and the law set forth in the attached Declaration, and good cause appearing, the Utah Insurance Commissioner orders as follows:

1. Respondent’s application for an insurance license is denied.
2. Pursuant to Utah Code § 63G-4-203(1)(i) and Utah Admin. Code R590-160-7(1), this informal adjudicative proceeding shall be deemed closed, and this Order shall become final and

take full effect, 15 days after this Notice of Agency Action and Order is electronically mailed to Respondent unless a request for a hearing on this matter is received from Respondent prior to that date.

3. A request for a hearing shall be sent by email to uidadmincases@utah.gov or by U.S. mail to Office of the Administrative Law Judge, Utah Insurance Department, 3110 State Office Building, Salt Lake City, UT 84114. The request for hearing shall be signed by the person making the request and shall state the basis for the relief requested.

4. If you fail to request a hearing you will be bound by this Order. Failure to request a hearing will be deemed a failure to exhaust administrative remedies and will preclude any further administrative or judicial review or appeal of this matter.

DATED this 5th day of July 2018.

TODD E. KISER
Utah Insurance Commissioner



LISA WATTS BASKIN
Presiding Officer
Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114
801-538-3800
uidadmincases@utah.gov

NOTICE REGARDING ENFORCEMENT OF THE ORDER

Failure to obey the Order may subject you to further penalties that include forfeitures of up to \$2,500 per violation, license suspension or revocation, further enforcement action before the Utah District Court where forfeitures of up to \$10,000 may be imposed. If you are licensed in other jurisdictions, you may be required to report this proceeding to those jurisdictions.

DECLARATION

Under criminal penalty of Utah law, I, Randy Overstreet, declare the following:

1. I am currently employed as Director of the Producer Licensing Division with the Utah Insurance Department where my responsibilities include investigating and enforcing Utah insurance laws.

2. I submit this Declaration as the basis for issuing the Notice of Agency Action and Order against Respondent Phonexay Phouangphrachan (“Respondent”) to which this Declaration is attached.

3. Based on my personal knowledge and/or based on the facts appearing in the Department’s records and files, the following facts are true:

a. On or about May24, 2004, Respondent was convicted of Aggravated Robbery, a 1st Degree Felony.

b. On or about May 14, 2013, Respondent was convicted of Giving False Personal Identity to Peace officer, a Class C Misdemeanor.

c. On May 29, 2018, the Department electronically received from Respondent an online application for a resident producer individual insurance license. Respondent answered “no” to the criminal background questions on the application and failed to report the above felony and misdemeanor convictions taken against him.

4. The above declared facts demonstrate that the following Utah insurance law(s) were not complied with:

a. Utah Code Ann. § 31A-23a-105(2)(b)(ii) – failing to report at the time of filing the license application a criminal prosecution taken against Respondent;

b. Utah Code Ann. § 31A-23a-111(5)(b)(ix) – providing incorrect, misleading, or materially untrue information in the license application;

c. Utah Code Ann. § 31A-23a-111(5)(b)(xiv)(B) – convicted of a misdemeanor involving misrepresentation or dishonesty;

d. Utah Code Ann. § 31A-23a-111(5)(b)(xiv)(A) – convicted of a felony;

e. Utah Code Ann. § 31A-23a-111(5)(b)(xxiii) – convicted of a felony involving dishonesty and therefore prohibited under 18 U.S.C. § 1033 from engaging in the business of insurance;

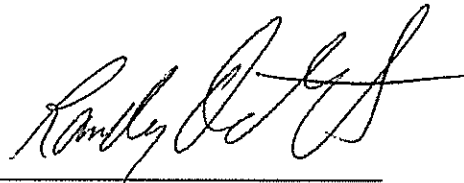
f. Utah Code Ann. § 31A-23a-107(2)(a)(ii) – failing to meet the trustworthy character requirement.

g. Utah Code Ann. § 31A-23a-111(5)(b)(ii)(a) – violated an insurance statute; and

h. Utah Code Ann. § 31A-23a-111(5)(b)(i) – is unqualified for a license under Utah Code Ann. § 31A-23a-104, 105 or 107.

4. Based on the facts and law set forth above Respondent's application for a resident producer individual insurance should be denied.

DATED this 28th day of June, 2018.



Randy Overstreet, Director
Producer Licensing Division
Utah Insurance Department