
STATE OF UTAH

DEPARTMENT OF INSURANCE

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

**TIFFANY ALLEN,
Insurance License Applicant,**

Respondent.

ORDER

Docket No. 2018-4048

Administrative Law Judge
Lisa Watts Baskin

This matter came before the undersigned on November 30, 2018, at 1:00 p.m., for a license denial hearing. Ms. Tiffany Allen, (hereafter "Respondent"), appeared *pro se*. Ms. Helen Frohlich, Assistant Utah Attorney General, appeared for the Utah Insurance Department, hereafter ("Complainant"). The administrative hearing was held as a formal proceeding pursuant to the November 2, 2018 Order of Conversion to Formal Proceeding. The matter was recorded.

PROCEDURAL BACKGROUND

Respondent filed a timely written hearing request to challenge the Complainant's license denial for a resident producer individual license. The license application was denied on October 15, 2018, pursuant to Utah Code Ann. Subsections 31A-23a-105(2)(b)(ii), 31A-23a-111(5)(b)(ix), 31A-23a-111(5)(b)(xiv)(B), 31A-23a-107(2)(a)(ii), 31A-23a-111(5)(b)(iv), and 31A-23a-111(5)(b)(i). Respondent filed a timely request for review on October 16, 2018. Both

parties stipulated in the Amended Scheduling Order of November 2, 2018, that documents or exhibits would be exchanged by either party within seven (7) days of the hearing.

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

FINDINGS OF FACT

1. On September 11, 2018, Respondent Allen, a resident of Utah, applied for a resident producer individual license.¹
2. The license application was denied on October 12, 2018, and mailed on October 15, 2018.²
3. On the application form, Respondent answered "No" to the License Application Questions: "Have you ever been convicted of a misdemeanor, had a judgment deferred, or are currently charged with committing a misdemeanor;" and "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement."
4. Respondent's answers failed to report both the criminal prosecution taken against her and the tax lien and thus provided incorrect, misleading, incomplete, or materially untrue information in the license application.
5. The numerous grounds for license denial were Respondent's:

¹ Complainant Ex. 1, License Application, UID 009-015.

² Complainant Ex. 1, License Denial Notice, UID 001-007.

- (a) failure to report at the time of filing the license application that she had a criminal prosecution [for retail theft] taken against her in violation of Utah Code Subsection 31A-23a-105(2)(b)(ii);
- (b) providing incorrect, misleading, incomplete, or materially untrue information in her license application [about retail theft, outstanding tax lien] in violation of Utah Code Subsection 31A-23a-111(5)(b)(ix);
- (c) conviction for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty [for retail theft], in violation of Utah Code Subsection 31A-23a-111(5)(b)(xiv)(B);
- (d) failure to meet the trustworthy character requirement [retail theft, failure to disclose], in violation of Utah Code Subsection 31A-23a-107(2)(a)(ii);
- (e) failure to pay a final judgment rendered against Respondent in this state [outstanding debts], in violation of Utah Code Subsection 31A-23a-111(5)(b)(iv); and
- (f) unqualified status for a license pursuant Utah Code Subsection 31A-23a-111(5)(b)(i) [for grounds mentioned herein].

6. Respondent filed a plea in abeyance to Retail Theft, Utah Code § 76-6-602, Class B misdemeanor, on January 13, 2016. On February 23, 2018, the plea in abeyance was revoked and entered as a conviction, with the remaining balance of \$744.22 ordered to the Office of State Debt Collection.³

³ Complainant Ex. 1, UID 016-029

7. Respondent was ordered to pay a tax lien judgment entered for \$405.21 on December 22, 2014, for failure to pay income tax from January 1, 2013 to December 31, 2013, which remains outstanding.⁴ Respondent failed to disclose this delinquent tax obligation in her application. ⁵
8. Respondent was ordered to pay a monetary judgment of \$829.95 on January 30, 2017, which remains outstanding.⁶
9. Respondent was ordered to pay a monetary judgment for \$2,048.50 on September 11, 2018, which is subject to a writ of garnishment and remains outstanding.⁷
10. Respondent made contact with the court on July 29, 2017, and her boyfriend was notified in writing of Respondent's pending action, regarding the hearing date for the revocation of her plea in abeyance, to be held on November 2, 2017.⁸
11. On February 23, 2018, the Court made findings and conclusions that Respondent failed to appear on the Order to Show Cause hearing to determine if her plea in abeyance should not be revoked. The Court stated that as a result of the defendant's failure to appear, a warrant was issued. "The Court further finds that attempts to contact the defendant have gone unanswered. The Court further finds that that the defendant has not maintained contact with the Court, failed to notify the Court of the change in mailing address, and/or persisted in willfully evading the jurisdiction of

⁴ Complainant Ex. 1, UID 030.

⁵ Complainant Ex. 1, UID 013.

⁶ Complainant Ex. 1, UID 031-032.

⁷ Complainant Ex. 1, UID 035.

⁸ Complainant Ex. 1, UID 026 (Defendant contacted court to reschedule plea in abeyance hearing, August 29, 2017; UID 027 (Defendant's boyfriend, Eric Velarde, phoned the court regarding receipt of the court's letter/notice regarding the plea in abeyance revocation hearing).

the Court. As a result, the following order [revocation of the plea in abeyance] is entered in absentia.”⁹

12. Respondent is employed by Teleperformance for Liberty Mutual Insurance, lawfully doing billing.

13. Based upon the evidence presented at the hearing, Respondent failed to prove by a preponderance of evidence that the insurance application was improperly denied. Utah Admin. Code R590-160-5(10).

ANALYSIS

Respondent testified that she is returning to the workforce, and she has been employed by Teleperformance for Liberty Mutual Insurance since August 2018. She testified that her job duties could entail changing insurance policies, providing policy advice, and doing billing. R. at 20:01-20:20. The record confirms that Respondent was convicted of retail theft. She testified in Court that she failed to report the retail theft on her application because she was not aware that the plea in abeyance had been revoked. R. at 9:06-9:27. However, the Court’s findings and conclusions prove otherwise. Findings of Fact, ¶¶ 6, 10, 11. The record confirms that Respondent failed to pay several outstanding judgments which alone are statutory grounds to deny licensure. Findings of Fact, ¶¶ 7, 8, 9. Additionally, Respondent has failed to meet the trustworthiness criteria because her failure to report the delinquent tax judgment. Findings of

⁹ Complainant Ex. 1, UID 028, Taylorsville City v. Allen, Taylorsville Justice Court, Case No. 151100717, February 23, 2018.

Fact, ¶ 7. Respondent had an open warrant for her arrest on a traffic violation.¹⁰

Complainant's witness, Randy Overstreet, Director of Producer Licensing Division, Utah Insurance Department testified to the numerous reasons for denial. R. at 24:20-25:00. These facts provide clear bases for the license denial despite Respondent's genuine efforts to improve her life, make a living, and support her family.

CONCLUSIONS OF LAW

1. The department has jurisdiction over the parties and subject matter of this administrative action. Utah Code Ann. §§ 31A-1-105 ; 31A-2-201; 63G-4-201 through 205; 31A-23a-101 et seq., and Utah Admin. Rule R590-160-1.
2. Respondent, in being convicted of a Class B misdemeanor, is prohibited from engaging in the business of insurance under the Utah Code Subsections 31A-23a-107(2)(a) and 31A-23a-111(5)(b)(xiv)(B). Findings of Fact, ¶¶ 5(c), 6.
3. Respondent, in having failed to failure to report at the time of filing the license application that she had a criminal prosecution taken against her, is in violation of Utah Code Subsection 31A-23a-105(2)(b)(ii) and, in providing incorrect, misleading, incomplete, or materially untrue information in his license application, is in violation of Utah Code Subsection 31A-23a-111(5)(b)(ix).
4. Respondent, in failing to disclose the tax lien, is in violation of Utah Code Subsection 31A-23a-111(5)(b)(ix).

¹⁰ . Respondent Ex. 1, Murray City v. Allen, Murray Justice Court, Case No. 145006837 TC, Clearance of Failure to Appear/Comply, October 31, 2018. The warrant was released on October 31, 2018, with a payment plan created. Mr. Overstreet testified that the traffic violation and related warrant are not grounds for license denial. Respondent resolved the matter nevertheless and provided evidence to the court.

5. Respondent, in failing to satisfy outstanding debts at the time of application, is in violation of Utah Code Subsection 31A-23a-111(5)(b)(iv).
6. Respondent failed to satisfy the burden of proof that she can meet the statutory requirements of competence and trustworthiness under Utah Code Ann. §§ 31A-23a-107(2).
7. Complainant properly denied Respondent's individual resident producer license application.

ORDER

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

The October 15, 2018 Notice of Informal Agency Action and Order, denying Respondent's application for an individual resident producer license is AFFIRMED.

Respondent's September 26, 2018 Application for an insurance license is hereby DENIED.

DATED this 6th day of December, 2018.



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

JUDICIAL 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 § 63G-4-301 and filed with the commissioner in writing or electronically at uidadmincases@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.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the foregoing **Order** was emailed to:

Tiffany Ann Allen
michael.rasband@teleperformance.com
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Helen Frohlich
Assistant Attorney General
hfrohlich@agutah.gov

DATED this 6th day of December, 2018.



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