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STATE OF UTAH

DEPARTMENT OF INSURANCE

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**UTAH INSURANCE DEPARTMENT,**

Complainant,

vs.

**MICHAEL ANTHONY MATHEWS,  
Insurance License Applicant,**

Respondent.

**ORDER**

Docket No. 2018-4053

Administrative Law Judge  
Lisa Watts Baskin

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This matter came before the undersigned on December 14, 2018, for a license denial hearing. Mr. Michael Anthony Mathews, (hereafter "the Respondent"), appeared *pro se*. Ms. Helen Frohlich, Assistant Utah Attorney General, (hereafter "the Complainant"), appeared for the Utah Insurance Department (hereafter "the Department"). The administrative hearing was held as a formal proceeding on the merits pursuant to the November 14, 2018 Order of Conversion to Formal Proceeding. The matter was partially recorded.

**PROCEDURAL BACKGROUND**

Respondent filed a timely, written hearing request on November 7, 2018, to challenge the Utah Insurance Commissioner's denial of his resident producer individual license, which was dated October 25, 2018. Respondent's application for a resident producer individual license

was denied pursuant to Utah Code Subsection 31A-23a-111(5)(b)(xiv)(B), for conviction of a misdemeanor involving fraud, misrepresentation, theft, or dishonesty.

Based on the foregoing, on Complainant's exhibits and witness testimony, and on Respondent's testimony and written correspondence, 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 16, 2018, Respondent, Michael Mathews, a resident of Utah, filed a written application with the Department for a resident producer individual license.<sup>1</sup>
2. Respondent's application was denied on October 25, 2018, based upon the record of his guilty pleas to three misdemeanors.<sup>2</sup> The criminal convictions included guilty pleas for violations of Utah Code § 58-37-8(3)(a)(ii), Attempted Falsely Obtaining/Dispensing Prescription, (Class A Misdemeanor), on two separate offense dates; and for violation of Utah Code § 76-6-409, Theft of Services, (Class B Misdemeanor). The final disposition of guilt was entered on June 27, 2016.
3. Respondent's application was denied as a result of being convicted of a misdemeanor involving fraud, misrepresentation, theft or dishonesty pursuant to Utah Code § 31A-23a-111(5)(b)(xiv)(B).

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<sup>1</sup> Complainant Ex. 1, Application, UID 008-013.

<sup>2</sup> Complainant, Ex. 1, , State v. Mathews, Fourth District Court – Provo, Case No. 151403326, UID 018-033.

4. On August 30, 2018, probation was terminated successfully when Respondent completed all conditions of his 24-month probation, including continuance of his ongoing treatment, abstention from drugs and alcohol, and no further attempts to obtain any prescriptions for pain pills without permission of the court.<sup>3</sup>
5. Respondent testified he made final payment of \$185.00 to the Office of State Debt Collection on December 13, 2018, the day before the formal hearing herein.
6. The Department's Notice of Agency Action and Order made reference to all the foregoing statutory grounds with accompanying court records, explaining with detail the basis for the Commissioner's denial decision.
7. Respondent Mathews provided written and sworn testimony to the court regarding his substance abuse addiction which began in early 2013. He admitted he misrepresented his medical condition to numerous physicians through so-called doctor-shopping to obtain prescriptions for opiate-based medications to which he was addicted.<sup>4</sup>
8. Respondent testified orally about his work history, also when he worked sporadically as a resident licensed producer in the insurance industry in Utah from December 16, 2013 to February 29, 2016.<sup>5</sup>
9. Respondent testified about his tremendous personal and professional growth since his convictions. He described his significant efforts to repair the damage caused by

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<sup>3</sup> Complainant Ex. 1, UID 029-033.

<sup>4</sup> Complainant Ex. 1, UID 015-017.

<sup>5</sup> Complainant Ex. 2, Utah Individual Information Inquiry, pp. 1-2.

his drug addiction, to regain and maintain his sobriety, and to move forward with his life. Respondent testified that he had no pending criminal charges, no unpaid criminal court costs or fines, and no incomplete terms of his sentencing.

10. Respondent seeks to renew his insurance license in order to work with Primerica and his colleague and mentor Nathan Allen.<sup>6</sup>
11. Complainant's witness, Randy Overstreet, Director, Producer Licensing Division, testified about the Department's protocols in reviewing license applications and his personal review of court records which revealed three criminal convictions which specifically involved fraud, misrepresentation, theft or dishonesty.
12. Mr. Overstreet testified about the relevant criminal and insurance statutes which were applied to the facts in the denial decision, focusing on the dishonest nature of his crimes and their relative recency.
13. Based upon the evidence presented at the formal hearing, Respondent failed to prove by a preponderance of evidence that his insurance license application was improperly denied. Utah Admin. Code R590-160-5(10).
14. Based upon the evidence presented at the formal hearing, Complainant proved by a preponderance of evidence that the insurance license application was properly denied. Id.

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<sup>6</sup> Complainant Ex. 1, UID 015-017.

## ANALYSIS

Respondent demonstrated his ability to remain sober and testified about his ongoing vigilance through voluntary treatment and counseling. He demonstrated his devotion and concern for his wife and children. He demonstrated his appreciation for his employer and mentor and his hopes for a bright future as a licensed insurance producer. However, the nature of his offenses involving misrepresentation and fraud strike at the heart of the insurance profession. When insurance products are offered and purchased, the transaction is wholly reliant upon trust and accountability. The product that is bought and sold is little more than a promise to cover an insured when a contingency occurs and the proper claim is filed which qualifies for coverage. There is little doubt Respondent is reformed and inspired to achieve. However, the recency of his convictions, June 2016, and the type of fraudulent conduct involved invoke a protocol utilized by the Department: more time must elapse post-conviction to demonstrate a pattern of honesty before the Department may license an applicant. See Utah Insurance Department v. Buckner, Case No. 2018-4039 (October 19, 2018); and Utah Insurance Department v. Eliason, Case No. 2017-098 LC (January 3, 2018). There is certainly nothing preventing Respondent from reapplying for his insurance license after more time has elapsed which would provide evidence of an ongoing pattern of honesty.

## CONCLUSIONS OF LAW

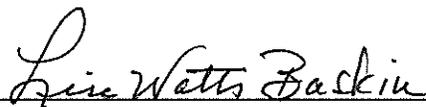
1. The department has jurisdiction over the parties and subject matter of this administrative action. Utah Code Ann. §§ 31A-1-105; 31A-2-201; 63G-4-201; Title 31A, Chapter 23a, Part 100, Utah Code; and Utah Admin. Code, R590-160.

2. Respondent, in being convicted of three recent misdemeanors involving dishonesty, 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) and (xiv)(B).

**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 Department's denial of Respondent's application for a resident producer individual license is UPHELD.

DATED this 2<sup>nd</sup> day of January, 2019.

  
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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](mailto: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.