
STATE OF UTAH
DEPARTMENT OF INSURANCE

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

CAROLYN MCKENZIE HARRIS,
Insurance License Applicant,

Respondent.

ORDER

Docket No. 2019-4128

Lisa Watts Baskin
Administrative Law Judge

This matter came before the undersigned on July 1, 2019, for review of a license application denial. Ms. Carolyn McKenzie Harris, Respondent, appeared *pro se*. Ms. Helen Frohlich, Assistant Attorney General, appeared for the Utah Insurance Department. The administrative hearing was held as a formal proceeding pursuant to the Order of Conversion to Formal Proceeding, dated June 13, 2019. 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 personal limited lines license, which was denied on three grounds: Utah Code Subsections 31A-23a-107(2)(a)(ii) (failure to meet character requirements); Subsection 31A-23a-111(5)(b)(iv) (failing to pay a final judgment); and Subsection 31A-23a-111(5)(b)(i) (unqualified for licensure). The denial was dated June 11, 2019. Respondent's request for hearing was filed timely on June 12, 2019.

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

FINDINGS OF FACT

1. On April 24, 2019, Respondent Harris, a resident of Utah, filed a written application for a personal limited lines license.¹
2. Respondent's application was denied on June 11, 2019, based upon a record of her plea in abeyance to Class B Misdemeanor Retail Theft (Shoplifting) under Utah Code § 76-6-602 (1979), which crime occurred on December 23, 2018. Her guilty plea in abeyance was entered on March 1, 2019, and continues to be an outstanding case because respondent is still under the jurisdiction of the court.²
3. Respondent's application was also denied for failure to pay a monetary judgment rendered against her in the amount of \$3,464,67 within 60 days after the day on which the judgment became final.³ R. at 27:26-27:40.
4. At trial, Complainant informed Respondent that a Writ of Garnishment has been issued on April 26, 2019, and sent to her employer. R. at 8:28-9:22; 16:57.

¹ Complainant Ex. 1, Application, UID 007-13.

² Complainant Ex. 1, West Jordan City v. Harris, West Jordan City Justice Court, Case No. 181301980, March 21, 2019. UID 018-024. On June 14, 2019, an Order to Show Cause was issued. UID 024.

³ Complainant Ex. 1, NAR Inc. v. Carolyn McKenzie Harris, Third District Court – Salt Lake County, Case No. 179904312, March 18, 2019. UID 015-017. A Writ of Continuing Garnishment was ordered on April 26, 2019.

5. Complainant's witness, Randy Overstreet, Director, Producer Licensing Division, testified about the recency of Respondent's criminal plea in abeyance which is still pending. R. at 26:59-27:39.
6. Complainant's witness testified about the character requirement of "trustworthiness" and its paramount importance in evaluating applicants for licensure. Based upon the Respondent's guilty plea in abeyance of theft by shoplifting which occurred just over six months ago, the Complainant concluded the recent incident involving dishonesty demonstrates untrustworthiness. R. at 21:25-22:18.
7. Complainant's witness testified that outstanding debt is a statutory ground for license denial. He stated that financial wellness is important because an agent may be inclined to misuse insurance premiums or consumer funds to address personal debt obligations. R. at 22:19-24:45.
8. Respondent referenced her interactions with her insurance employer, Liberty Mutual. She sought a letter of recommendation from the Assistant Account Manager at Liberty Mutual, but it was not provided prior to the hearing. R. at 4:14-41; 13:49-15:50.
9. Respondent has no other criminal or debt history. R. at 12:29-12:56.
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). After her debt is satisfied and sufficient time has

elapsed since the recent plea in abeyance and those conditions are completed, Respondent could reapply for licensure.

11. Based upon the evidence provided at the hearing, Complainant proved by a preponderance of evidence that the insurance application was properly denied on statutory 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; 31A-2-201; 63G-4-201; Title 31A, Chapter 23a, Part 100, Utah Code; and Utah Admin. Code R590-160.
2. Respondent, in having entered a guilty plea in abeyance to a retail theft Class B misdemeanor, and in failing to make timely payments on court fees and an outstanding debt, 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)(ii) and 31A-23a-111 (5)(b)(i) and (iv).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing, 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 10th day of July, 2019.



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.