
BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

**LAWRENCE MILLER,
Insurance License Applicant,**

Respondent.

**AMENDED DEFAULT AND
DISMISSAL ORDER**

Docket No. 2020-4225

This matter came before the Judge Lisa Watts Baskin on June 22, 2020, upon a written request from Respondent Lawrence Miller (hereafter “Miller”) to challenge the denial of his license application. Miller appeared *pro se*.

PROCEDURAL BACKGROUND

Miller filed a timely, written hearing request with the Utah Insurance Department (hereafter “the Department”) to review the license denial of his application for a resident producer individual insurance license. Miller’s application was denied on numerous grounds: Utah Code Subsections 31A-23a-105(2)(b)(ii); 31A-23a-107(2)(a)(ii); 31A-23a-111(5)(b)(i), (b)(iv), (b)(ix), and (b)(xiv)(B). The denial was dated June 18, 2020. Miller filed a timely hearing request on June 22, 2020.

JURISDICTION

The undersigned has jurisdiction pursuant to Utah Code § 63G-4-201 through 203 and Utah Admin. Code R590-160.

FINDINGS OF FACT

1. On June 3, 2020, Miller filed an online license application for a resident producer individual insurance license.
2. On June 18, 2020, the Department denied the license application in the Notice of Informal Adjudicative Proceeding and Order.
3. On June 22, 2020, Miller filed the timely, written request for hearing to challenge the license denial.
4. On June 26, 2020, Judge Baskin scheduled a prehearing telephonic conference for July 9, 2020, at 1:00 p.m., in an Order of Conversion to Formal Proceeding and Notice of Prehearing Telephone Conference sent via the email address provided by Miller. (Couser Decl., at ¶ 3.e.)
5. On July 9, 2020, only Judge Baskin and Randy Overstreet (hereafter “Overstreet”) were connected to the prehearing telephone conference. Miller and Helen Frohlich, Assistant Attorney General, (hereafter “Frohlich”) were contacted by Couser and both said they weren’t able to connect to the conference call, but they agreed to call back. (Couser Decl., at ¶ 3.f.)
6. Couser set up the conference call on a different telephone. Overstreet and Frohlich were able to connect, but Respondent wasn’t on the line. (Couser Decl., at ¶ 3.g.)
7. Couser again called Miller and left a message to call back. Judge Baskin also called Miller but was unable to reach him. (Couser Decl., at ¶ 3.h.)

8. On July 9, 2020, Couser sent an email to Respondent advising him that he would be contacted by Frohlich to schedule a new prehearing telephone conference. (Couser Decl., at ¶ 3.i.)
9. On July 14, 2020, Couser a sent an email to Miller with possible dates to reschedule the prehearing telephonic conference. Couser asked Miller to respond no later than July 21, 2020. (Couser Decl., at ¶ 3.j.)
10. Couser sent a follow-up to Miller on July 20, 2020, which explained that if the Department didn't hear from him by July 21, 2020, the matter would be defaulted and his license application denied. (Couser Decl., at ¶ 3.k.)
11. On July 21, 2020, Respondent indicated via email that he would like to hold a prehearing telephone conference. (Couser Decl., at ¶ 3.l.)
12. On July 22, 2020, Couser sent another email to Miller with new dates and times. (Couser Decl. at ¶ 3.m.)
13. Since that date, Miller has not contacted Couser to reschedule a prehearing telephonic conference. (Couser Decl., at ¶ 3.n.).

CONCLUSIONS OF LAW

1. Utah Code § 63G-4-209 authorizes the presiding officer to enter an order of default against a party on several grounds.
2. Utah Code Subsection 63G-4-209 (1)(a) provides: "The presiding officer may enter an order of default against a party if: (a) a party in an informal adjudicative proceeding fails to participate in the adjudicative proceeding."
3. Miller has failed to participate. Findings of Fact, ¶¶ 12, 13.

4. Utah Code Subsection 63G-4-209(4)(b) provides: "In an adjudicative proceeding that has no parties other than the agency and the party in default, the presiding officer shall, after issuing the order of default, dismiss the proceeding."

ORDER

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

Respondent's Request for Hearing is in DEFAULT and the matter is DISMISSED with prejudice.

DATED this 12th day of August 2020.

TODD E. KISER
UTAH INSURANCE COMMISSIONER

/s/ Tanji Northrup
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, UT 84114
801-538-3860
uidadmincases@utah.gov

RIGHTS OF DEFAULTED PARTY

A defaulted party may seek to have the agency set aside the default order or any subsequent order by motion to the presiding officer as provided in Utah Code § 63-4-209.

DECLARATION

Under criminal penalty of Utah law, I, Jeanine Couser, declare the following:

1. I am currently employed as an administrative assistant/law clerk with the Utah Insurance Department (Department) where my responsibilities include assisting the Administrative Law Judge.

2. I submit this Declaration as evidence in the matter of Utah Insurance Department vs. Lawrence Miller, Docket No. 2020-4225.

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 June 19, 2020, I certified that a Notice of Informal Adjudicative Proceeding and Order had been emailed to Respondent.
- b. On June 22, 2020, Respondent sent an email to uidadmincases@utah.gov, in which he stated, "I am writing to request a hearing concerning the denial of my Insurance Application."
- c. On June 24, 2020, I sent an email to Respondent with available dates and times for a prehearing telephone conference.
- d. On June 26, 2020, I contacted Respondent at his home telephone number (xxx-xxx-9819). I asked him if any of the available dates and times for a prehearing telephone conference would work for him. Respondent said he would send an email that day. He replied, "July 9th at 1pm would work."

- e. On June 26, 2020, I certified that an Order of Conversion to Formal Proceeding and Notice of Prehearing Telephone Conference, with a scheduled date and time of July 9, 2020, at 1:00 p.m., had been emailed to Respondent.
- f. On July 9, 2020, at about 1:10 p.m., Judge Baskin told me that of the three people who would be calling in for the prehearing telephone conference, only Randy Overstreet was on the line. She asked me to contact Helen Frohlich, Assistant Attorney General, as well as Respondent. I called Frohlich and she said she was having problems calling in. I called Respondent at his home telephone number and he said he was also having problems calling in. Both said they would call back.
- g. After setting up the conference call on a different telephone, Overstreet and Frohlich were on the call, but Respondent didn't call back or was unable to connect.
- h. Judge Baskin asked me to call Respondent, but I was only able to leave a message to call back. Shortly after that, the Judge told me that she had also tried to call Respondent but he didn't answer.
- i. The Judge asked me to send Respondent an email to let him know Frohlich would contact him to reschedule the prehearing telephone conference. I sent the email that day as instructed.
- j. On July 14, 2020, I sent Respondent an email asking if he would like to reschedule the prehearing telephone conference and, if so, to respond by July 21, 2020.

- k. On July 20, 2020, I sent an email that stated, "...if we don't hear from you by end of day on July 21, 2020, your matter will be defaulted and the denial of you license application will be entered."
- l. On July 21, 2020, Respondent sent an email which said, "I would still like to hold the hearing. I have been out of town for work and have little phone availability. Please respond with a date and time that works for the judge and I will arrange my schedule so I can attend the call."
- m. On July 22, 2020, I sent Respondent an email with possible dates and times for the new prehearing telephone conference.
- n. As of the date below, Respondent has not contacted me to schedule a prehearing telephone conference.

DATED this 12th day of August, 2020.



Jeanine Couser
Administrative Assistant/Law Clerk
Utah Insurance Department