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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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**UTAH INSURANCE DEPARTMENT,**

Complainant,

vs.

**ULISES COLON,**

**Insurance License Applicant,**

Respondent.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER**

Docket No. 2020-4281

Curtis L. Garner  
Presiding Officer

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The Complainant Utah Insurance Department (“the Department”) denied the application of Respondent Ulises Colon (“Colon”) for an insurance license. Colon requested a hearing to challenge this denial.

The parties tried this case before the presiding officer on February 9, 2020. Edward Vasquez of the Utah Attorney General’s Office represented the Complainant Utah Insurance Department (“the Department”). Respondent Ulises Colon (“Colon”) represented himself. The parties having presented their evidence and arguments, the presiding officer enters the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

The undersigned enters these findings of fact based on a preponderance of evidence.

1. On November 27, 2020, the Department received an online license application from Colon for a resident producer individual insurance license.
2. In his application, Colon answered “No” to the question, “Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?” Colon further answered “No” to the question, “Have

you ever been convicted of a felony, had a judgment withheld, or deferred, or are you currently charged with committing a felony?”

3. On June 13, 2011, Colon was convicted Possession of a Controlled Substance, a Class B Misdemeanor.
4. On October 18, 2011, Colon was convicted of Possession or Use of a Controlled Substance, a Class B Misdemeanor.
5. On June 9, 2016, Colon was convicted of Assault, a Class B Misdemeanor.
6. On January 28, 2020, Colon was charged with violating Utah Code §76-5-402.2, Object Rape, a First-Degree Felony, in the Third District Court, Salt Lake County, State of Utah. At the time of this hearing, this criminal matter was still pending.
7. When filling out his license application, Colon became embarrassed and feared that his prior convictions and pending criminal case could ruin the career he had been working hard to build. He therefore intentionally denied his past and pending criminal matters.

#### **CONCLUSIONS OF LAW**

1. The Utah Insurance Commissioner, through the designated presiding officer, has jurisdiction of this adjudicative proceeding under Utah Code §§ 31A-1-105, 31A-2-201, 31A-2- 308, 63G-4-204 through 209 and Utah Admin. Code R 590-160.

#### ***Trustworthiness***

2. An applicant for a producer license must “show to the commissioner that the applicant is . . . trustworthy[.]” Utah Code § 31A-23a-107(2).

3. A license may be denied if the commissioner finds as part of an adjudicative proceeding that an applicant fails to satisfy this trustworthiness requirement. Utah Code §31A-23a-111(5)(b)(1).
4. Colon's intentional misrepresentations regarding his three prior misdemeanor convictions and his pending felony prosecution demonstrated a lack of trustworthiness within the meaning of § 31A-23a-107(2).

***Incorrect and Misleading Application***

5. A license application may also be denied if the commissioner finds as part of an adjudicative proceeding that the applicant has provided information in the license application that is incorrect, misleading, incomplete or materially untrue. Utah Code § 31A-23a-111(5)(a)(iv) and (5)(b)(ix).
6. By submitting an application in which he falsely denied his three prior misdemeanor convictions and his pending felony prosecution, Colon provided incorrect and misleading information within the meaning of § 31A-23a-111(5)(ix).

***Pending Criminal Prosecution***

7. The commissioner has authority under Utah Code § 31A-2-201(3) to adopt rules to implement the provisions of Title 31A.
8. The commissioner has exercised this rulemaking authority by adopting an administrative rule, Utah Admin. Code R590-281-4, which provides that an individual may not apply for a license if a criminal proceeding is pending against the individual (Subsection 2), and that the Department will deny a license application submitted by an individual who is thus ineligible (Subsection 4).

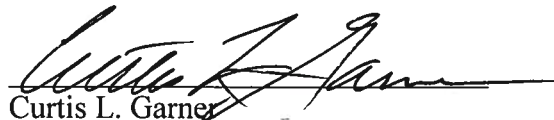
9. Due to his pending criminal prosecution, Colon is ineligible to apply for an insurance license.

**ORDER**

Based on the above Findings of Fact and Conclusions of Law, and good cause appearing, it is ordered that the application of Ulises Colon for a resident producer individual insurance license is denied.

DATED this 9<sup>th</sup> day of February 2021.

JONATHAN T. PIKE  
UTAH INSURANCE COMMISSIONER



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### **Right To Apply for Reconsideration**

Pursuant to Utah Code § 63G-4-302, any party may file a written request for reconsideration with the agency within 20 days after the date of this order.

### **Right to Judicial Review**

Pursuant to Utah Code § 63G-4-401, a party may obtain judicial review of final agency action by filing a petition for judicial review within 30 days after the date the order constituting final agency action is issued.

You may find the rules regarding Administrative Law Judges at <https://rules.utah.gov/publicat/code/r477/r477-101.htm>.