

---

**BEFORE THE UTAH INSURANCE COMMISSIONER**

---

**UTAH INSURANCE DEPARTMENT,**

Complainant,

vs.

**THOMAS TAYLOR CHERRY,**

Respondent.

**ORDER DISMISSING RESPONDENT'S  
REQUEST FOR HEARING REGARDING  
COMPLAINANT'S NOTICE OF AGENCY  
ACTION**

Docket No. 2022-4432

Donald H. Hansen  
Administrative Law Judge/Presiding Officer

---

This matter was commenced on October 5, 2022, when Complainant Utah Insurance Department (“Department”) filed a Notice of Agency Action and Order denying Respondent Thomas Taylor Cherry’s (“Respondent”) application for a resident individual insurance producer license. Respondent then appealed the Department’s Notice of Agency Action and Order by filing a timely request for hearing.

A Pre-Hearing Conference was noticed and conducted regularly on November 17, 2022, by telephone conference. Respondent appeared, and was not represented by counsel. The Department appeared by and through its counsel, Helen A. Frohlich, Esq., Assistant Utah Attorney General. During the Pre-Hearing Conference, Respondent was advised of the need to file an application for permission from the Utah Insurance Commissioner (“Commissioner”) to apply for state licensure as an individual insurance producer pursuant to federal statute, *to-wit*, 18 U.S.C. Sec. 1033, because of his prior court history. He was further advised of online public resources he could pursue, which explain why and how to

file such application with the Commissioner.

Respondent stated that he intended to file such application with the Commissioner. Both parties agreed to stay Respondent's appeal and request for hearing pending the Commissioner's ruling on Respondent's anticipated application under Sec. 1033. The parties also agreed that further action on Respondent's appeal would be determined by the outcome of Respondent's application to the Commissioner.

18 U.S.C. Section 1033(e) provides in part as follows:

**(1)**

**(A)**

Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

\* \* \* \*

**(2)**

A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

Hence, in Utah, a person who has been convicted of any criminal felony involving dishonesty or breach of trust is prohibited from seeking licensure to engage in the business of insurance unless and until her or she has secured the written consent of the Utah Insurance Commissioner. Here, Respondent stated during the Pre-Hearing Conference that he understood that permission from the Commissioner was required because of his prior court history, and that he intended to seek such permission by requesting it from the Commissioner. He was provided guidance regarding how to apply to the Commissioner for

written consent to apply for licensure, and his request for hearing was stayed based upon his assurance that he would take the required action to request the Commissioner's approval. He was given four months in which to file his request with the Commissioner by no later than March 17, 2023. However, the Department's records establish that Respondent failed to file his request with the Commissioner within the permitted time. Since the Pre-Hearing Conference, the Department has received no further communication from Respondent. Accordingly, Respondent is presently barred from applying for his Utah insurance license due to his failure to seek and obtain the Commissioner's written consent as required by Section 1033(e), requiring dismissal of his request for hearing.

Based upon the foregoing, the Respondent's request for hearing and appeal of the Department's Notice of Agency Action and Order dated October 5, 2022 is hereby DISMISSED. The Department's Notice of Agency Action denying Respondent's application for licensure is AFFIRMED.

DATED this 24<sup>th</sup> day of March 2023.

JONATHAN T. PIKE  
UTAH INSURANCE COMMISSIONER

/s/ Donald H. Hansen  
Donald H. Hansen  
Administrative Law Judge/Presiding Officer  
Utah Insurance Department  
4315 South 2700 West, Suite 2300  
Taylorsville, UT 84129  
801-957-9321  
Email: [uidadmincases@utah.gov](mailto:uidadmincases@utah.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of March 2023, a copy of the foregoing **ORDER DISMISSING RESPONDENT'S REQUEST FOR HEARING REGARDING COMPLAINANT'S NOTICE OF AGENCY ACTION** was sent via electronic mail to the following:

Thomas Taylor Cherry  
[REDACTED]

Helen A. Frohlich  
Assistant Attorney General  
[REDACTED]

*/s/ Jeanine Couser*  
\_\_\_\_\_  
Jeanine Couser  
Utah Insurance Department  
4315 South 2700 West, Suite 2300  
Taylorsville, UT 84129  
801-957-9321