
BEFORE THE UTAH INSURANCE COMMISSIONER

UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

JACOB ROWLEY GILES,

Respondent.

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

Docket No. 2022-4434

Donald H. Hansen
Administrative Law Judge/Presiding Officer

PROCEDURAL BACKGROUND

This matter was commenced on October 13, 2022, when Complainant Utah Insurance Department (“the Department”) filed a Notice of Agency Action seeking denial of Jacob Rowley Giles' (“Respondent”) application for a resident individual insurance producer license.

The Notice of Agency Action and Order denying Respondent's license application provided for a right to request a hearing regarding the proposed action, and Respondent timely filed a request for hearing.

In accordance with Utah Admin. Code R590-160, the Presiding Officer duly noticed and conducted an evidentiary hearing on December 7, 2022. The hearing was conducted by electronic video teleconference. The Department appeared at the hearing, represented by Helen Frohlich, Assistant Attorney General, Utah Attorney General’s Office. The Department called one witness, *viz.*, Randy Overstreet, manager of producer licensing for the Department. The Respondent appeared and was not represented by counsel. The Presiding Officer received live testimony and documentary evidence at the hearing.

Based on the foregoing provisions of law and the evidence received at the evidentiary hearing, by a preponderance of the evidence, the Presiding Officer makes the following:

FINDINGS OF FACT

1. On October 6, 2022, Respondent applied for licensure by the Department as a resident individual insurance producer.
2. The Department's application form contains, among other questions, a question asking whether the applicant had ever been named or involved in an administrative proceeding regarding a professional or occupational license or registration.
3. Respondent answered "no" to the above question in the license application.
4. Respondent held a Utah resident individual insurance producer license, number 696957, from November 1, 2018, until April 30, 2020.
5. The Department revoked Respondent's prior license, on April 30, 2020. *See, Utah Insurance Department v. Jacob Giles*, Docket No. 2020-4214. At the evidentiary hearing in this matter, Respondent did not recall why his previous license had been revoked.
6. As of the date of the evidentiary hearing in this matter, the Respondent had two unsatisfied civil monetary judgments against him pending. In the case of *Legends at River Oaks Apartments v. Jacob Rowley Giles, et. al*, Utah Third District Court, Salt Lake County, Case No. 199907682, judgment in the sum of \$4,052.84 was entered against Respondent on June 27, 2019, and remains unsatisfied. In the case of *Utah State Tax Commission v. Jacob Giles*, Utah Second District Court, Davis County, Case No. 206700232, judgment in the sum of \$693.21 was entered against Respondent on January 20, 2020, and remains unsatisfied.

7. Respondent acknowledges the pending judgments identified above and intends to address them with the judgment creditors.

8. An insurance license applicant's failure to pay lawful court judgments and other valid debts is of substantial concern to the Department under the Utah Insurance Code, Utah Code Sec. 31A-1-102, *et. seq.*, because the insurance industry requires financial trustworthiness on the part of insurance licensees, as they are responsible for safekeeping and proper handling of client funds. In addition, experience shows that insurance licensees with unpaid judgments may mishandle or steal client funds.

9. Respondent applied for a new license prior to five (5) years from the day the order revoking Respondent's license was made. Respondent did not seek or obtain the approval of the Insurance Commissioner before filing his application for a new insurance licensee,

CONCLUSIONS OF LAW

1. Respondent's application for licensure by the Department violates the following provisions of the Utah Insurance Code:

a. Utah Code, Section 31A-23a-111(5)(b)(xvii), having had a previous Utah insurance license revoked;

b. Utah Code, Section 31A-23a-111(8)(b), applying for a new license before five (5) years from the day on which the order revoking Respondent's license was made, without the express prior approval of the insurance commissioner;

c. Utah Code, Section 31A-23a-111(5)(b)(ix), by providing incorrect, misleading or materially untrue information in the license application by answering "no" when

asked if he had been named or involved in a previous administrative proceeding regarding a professional or occupational license or registration;

d. Utah Code, Section 31A-23a-105(a)(ii), by committing an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111;

e. Utah Code, Section 31A-23a-104(2)(b)(v), by failing to provide information in his license application regarding whether Respondent has committed an act that is ground for denial as set forth in Section 31A-23a-105 or 31A-23a-111;

f. Utah Code, Section 31A-23a-107(2)(a)(ii), by failing to meet the trustworthy character requirement;

g. Utah Code, Section 31A-23a-111(5)(b)(i), being unqualified for a license under Utah Code Section 31A-23a-104, 105 or 107;

h. Utah Code, Section 31A-23a-111(5)(b)(iv), by failing to pay a final judgment rendered against Respondent within sixty (60) days after the date on which the judgment became final;

i. Utah Code, Section 31A-23a-111(5)(b)(xxii), failing to pay state income tax, or to comply with an administrative or court order directing payment of state income tax; and

j. Utah Code, Section 31A-23a-111(5)(b)(ii), by violating and insurance statute.

Accordingly, the Presiding Officer finds substantial evidence and good cause to enter the following:

ORDER

1. The Notice of Agency Action and accompanying Order dated October 13, 2022, is hereby AFFIRMED. Respondent 's application for licensure as described above is DENIED.

DATED this 20th day of December 2022.

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

See appeals rights information in the attached sheet.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of December, 2022, a copy of the foregoing **Findings of Fact, Conclusions of Law, and Order** was sent via electronic mail to the following:

Jacob Rowley Giles
[REDACTED]

Helen A. Frohlich
Assistant Attorney General
hfrohlich@agutah.gov

DATED this 20th day of December 2022.

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

Right to Request Reconsideration

Pursuant to Utah Code Sec. 63G-4-302, any party may file a written request for reconsideration with the agency within 20 days after the date of this order. The request should be sent to uidadmincases@utah.gov.

Right to Judicial Review

Pursuant to Utah Code Sec. 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. *See also*, Utah Code Sec. 63G-4-403.

Right to Agency Review

Any party may request agency review of an order in an adjudicative proceeding within 30 days of the date of the order to be reviewed. The request should be sent to uidadmincases@utah.gov. Utah Insurance Department Rule R590-160-8 provides as follows:

(1)

(a) Agency review of an adjudicative proceeding, except an informal adjudicative proceeding that becomes final without a request for a hearing pursuant to Subsection R590-160-7(1), shall be available to a party to a proceeding by filing a request for agency review with the commissioner within 30 days of the date of the order.

(b) Failure to seek agency review shall be considered a failure to exhaust administrative remedies.

(2) Agency review shall comply with Sections 63G-4-301 and 63G-4-302.

(3)

(a) The commissioner or the commissioner's designee shall conduct the review.

(b) A designee shall not be the presiding officer who issued the decision under review.

(c) If a designee conducts a review, the designee shall recommend a disposition to the commissioner who shall make the final decision and shall sign the order.

(4) Content of a Request for Agency Review.

(a) A request for agency review shall comply with Subsection 63G-4-301(1)(b), and shall include the following:

(i) a copy of the order that is the subject of the request;

(ii) the factual basis for the request, including:

(A) citation to the record of the formal adjudicative proceeding; and

(B) clear reference to evidence or a proffer of evidence in an informal adjudicative proceeding;

(iii) the legal basis for the request, including citation to supporting authority;

(iv) for a challenge to a finding of fact in a formal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the entire record; and

(v) for a challenge to a finding of fact in an informal adjudicative proceeding, the reason that the finding is not supported by substantial evidence based on the evidence received or proffered.

(b) A party challenging a finding of fact in a formal adjudicative proceeding shall:

(i) order a transcript of the recording relevant to the finding;

(ii) certify that a transcript has been ordered;

(iii) file the transcript with the commissioner or the commissioner's designee and serve a copy on each party; and

(iv) bear the cost of preparing the transcript.

(c) The commissioner or commissioner's designee may waive the transcript requirement on motion for good cause shown.

(5) Memoranda.

(a)(i) A party requesting agency review shall submit a supporting memorandum with the request.

(ii) If a transcript is necessary to conduct the agency review, the supporting memorandum shall be filed no later than 15 days after the service of the transcript on the opposing party.

(b) An opposing memorandum shall be filed no later than 15 days after the filing of the supporting memorandum.

(c) A reply memorandum shall be filed no later than five days after the filing of the opposing memorandum.

(d) The commissioner or the commissioner's designee may order a party to submit additional memoranda to assist in conducting agency review.

(6) Request for a Stay.

(a) On motion by any party and for good cause, the commissioner or commissioner's designee may stay the presiding officer's order during the pendency of agency review.

(b) A motion for a stay shall be made in writing and may be made at any time during the pendency of agency review.

(c) An opposition to a motion for a stay shall be made in writing within 10 days from the date the stay is requested.

(7) The commissioner or the commissioner's designee may grant oral argument if requested in a party's initial pleading.

(8) Failure to comply with Section R590-160-9 may result in dismissal of the request for agency review.