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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

DELRIC DAMON ELLINGTON,

Respondent

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

Docket No. 2023-4509

Donald H. Hansen  
Administrative Law Judge/Presiding Officer

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**BACKGROUND**

Respondent DELRIC D. ELLINGTON (Respondent) applied to renew his licensure with the Utah Insurance Department (Department) on April 26, 2023, as a resident individual insurance producer. The Department issued its Notice of Agency Action and Order on May 9, 2023, denying Respondent's application based on (a) one lien and court judgment for unpaid child support, and (b) four unpaid tax liens and court judgments filed by the Utah State Tax Commission, in accordance with provisions of the Utah Insurance Code (Utah Code Sec. 31A-1-101, *et. seq.*), Sec. 31A-23a-111(5)(b)(xxii), and Utah Administrative Code rule R590-281-4(1)(e).

Respondent timely requested a hearing and an evidentiary hearing was duly noticed and conducted on August 2, 2023. Respondent appeared via Google Meet video teleconferencing and was not represented by counsel. The Department appeared, represented by Helen Frohlich, Assistant Utah Attorney General, along with its witness, Randy Overstreet, the Department's

manager of producer licensing.

The undersigned Donald Hansen is the Administrative Law Judge for the Department and serves as Presiding Officer in this formal adjudicative proceeding.

### **FINDINGS OF FACT**

1. Respondent was licensed by the Department as a resident insurance producer, license number 841253, issued by the Department on April 8, 2021.
2. Respondent applied for renewal of his Utah insurance license on April 26, 2023.
3. In responding to questions asked in the Department's license renewal application form, Respondent answer "yes" to the following question: "Do you have a child support obligation in arrearage, which has not been previously reported to this insurance department," and stated his child support was in arrearage by ten months.
4. A child support lien was filed and a money judgment was entered on January 25, 2023, in Utah Third District Court in Salt Lake County against Respondent, and was subsequently amended and filed as of April 5, 2023, in the sum of \$15,272.01.
5. A tax lien was filed and a money judgment was entered by the Utah Tax Commission on June 20, 2022, in Utah Third District Court in Salt Lake County against Respondent in the sum of \$2,088.30, representing unpaid state income taxes for tax year 2016.
6. A tax lien was filed and a money judgment was entered by the Utah Tax Commission on June 20, 2022, in Utah Third District Court in Salt Lake County against Respondent in the sum of \$2,096.34, representing unpaid state income taxes for tax year 2017.
7. A tax lien was filed and a money judgment was entered by the Utah Tax Commission on June 20, 2022, in Utah Third District Court in Salt Lake County against

Respondent in the sum of \$1,143.49, representing unpaid state income taxes for tax year 2018.

8. Another tax lien was filed and a money judgment was entered by the Utah Tax Commission on June 20, 2022, in Utah Third District Court in Salt Lake County against Respondent in the sum of \$2,010.15, representing unpaid state income taxes for tax year 2019.

9. Each of the foregoing liens and judgments remain unsatisfied as of the date of the evidentiary hearing in this case.

10. Respondent was aware that he got behind on his child support payments but testified that he has been unable to pay them. He testified that he was not aware of the delinquent Utah income tax liens and judgments when he filed his renewal application with the Department, but he doesn't dispute the validity or amount of the state income tax obligations.

11. Shortly before applying for renewal of his insurance license, Respondent began working in training at [REDACTED], an insurance brokerage with offices in South Jordan, Utah. He thinks he will be unable to continue working there because renewal of his Utah insurance license was denied.

12. An applicant for licensure by the Department who has delinquent state income tax liens and judgments, as well as child support payments in arrearage, is of significant concern to the Department because licensees routinely handle client funds, and the Department attempts to ensure that licensees are financially competent, trustworthy and not a risk to the consumer.

### **CONCLUSIONS OF LAW**

1. The Utah Insurance Code, Utah Code Section 31A-23a-111(5)(b) states: "The [insurance] commissioner may [deny a license application] if the commissioner finds that the ... license applicant: ... (xxii) fails to ... pay state income tax[.]" Respondent is in violation of this

provision of the Insurance Code. This statute does not provide exceptions for circumstances demonstrating that a license applicant has been subject to personal or financial hardships which interfered with his/her ability to pay state income tax.

2. The Utah Insurance Code, Utah Code Section 31A-23a-111(5)(b)(xxi) states:  
“The [insurance] commissioner may [deny a license application] if the commissioner finds that the ... license applicant: ... fails to comply with an administrative or court order imposing a child support obligation.” Respondent is in violation of this provision of the Insurance Code. Like the previously cited statute, this statute does not provide exceptions for circumstances demonstrating that a license applicant has been subject to personal or financial hardships which interfered with his/her ability to pay child support, and doesn’t allow for licensing where such a violation exists based upon the applicant’s good faith intentions or absence of a record of actual misconduct.
3. The Department correctly determined that Respondent failed to pay Utah state income tax for multiple years, and that her application for licensure is subject to denial in accordance with Sections 31A-23a-11(5)(b)(xxii)(A) and 31A-23a-11(5)(b)(xxi).

### **ORDER**

Based upon the foregoing, the Department’s Notice of Agency Action denying Respondent’s May 9, 2023, application for licensure renewal is **AFFIRMED**.

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DATED this 9<sup>th</sup> day of August 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**

The undersigned hereby certifies that on this date a true and correct copy of the foregoing

**FINDINGS OF FACT, CONCLUSION OF LAW and ORDER to:**

Delric Ellington

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Helen Frohlich

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160 E. 300 S., 5th Floor

P.O. Box 140874

Salt Lake City, UT 84114-0874

DATED this 9<sup>th</sup> day of August 2023.

/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](mailto: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](mailto: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.