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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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UTAH INSURANCE DEPARTMENT,

Complainant,

vs.

CHEYANNA DAWN BRULE,

Respondent

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

Docket No. 2023-4510

Donald H. Hansen

Administrative Law Judge/Presiding Officer

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**BACKGROUND**

Respondent CHEYANNA DAWN BRULE (Respondent) applied for licensure with the Utah Insurance Department (Department) on March 31, 2023, as a resident individual insurance producer. The Department issued its Notice of Agency Action and Order on May 11, 2023, denying Respondent's application based on a felony conviction which had been reduced to a misdemeanor in accordance with Utah law.

Respondent timely filed a request for an evidentiary hearing on May 11, 2023. At a prehearing conference conducted telephonically on May 19, 2023, Respondent was advised by Department's counsel and the Presiding Officer of the requirement that she file a written request for approval of the Utah Insurance Commissioner to apply for licensure under 18 U.S.C., Sec. 1033.

On May 22, 2023, Respondent's case was stayed pending the outcome of her application to the Commissioner. On June 2, 2023, the Commissioner granted approval for Respondent to

apply for licensure by the Department. On June 6, 2023, the Department filed an amended declaration which stated that during the Sec. 1033 approval process, several unpaid civil judgments against Respondent had been discovered. On July 13, 2023, Respondent filed an “Answer” responding to the allegations of unpaid judgments.

The Presiding Officer conducted an evidentiary hearing on August 10, 2023. All witnesses and counsel appeared via Google Meet video teleconferencing. Respondent was not represented by counsel. The Department was represented by Shelley A. Coudreaut, Assistant Utah Attorney General. Based on the record evidence presented in this matter, the Presiding officer enters the following.

### **FINDINGS OF FACT**

1. Respondent applied to be licensed by the Department as a resident insurance producer on March 31, 2023, and completed a Department license application form.
2. In responding to questions asked in the Department’s license renewal application form, Respondent answered “no” to the following 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. Respondent answered “yes” to the following question: “Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?”
4. In its review of Respondent’s application, the Department discovered a criminal record showing a conviction for Attempted Theft, a third-degree felony, on December 11, 2008.
5. On June 8, 2016, Respondent’s felony theft conviction was reduced to a Class A

misdemeanor though a “402 reduction” as permitted by Utah Code. Sec. 76-3-402(2).

6. However, under the Utah Insurance Code, Utah Code Sec. 31A-23a-111(5)(b)(xxv), Respondent’s felony reduction to a Class A misdemeanor theft still constitutes a felony conviction involving dishonesty or breach of trust for purposes of the Insurance Code, requiring that Respondent seek and obtain written consent of the Insurance Commissioner to engage or participate in the business of insurance.

7. Respondent answered “no” to the question about felony convictions in the Department’s application form because she did not think the conviction would be considered a felony, inasmuch as she had secured the 402 reduction to a misdemeanor.

8. On May 11, 2023, solely on the basis of Respondent’s 2008 felony theft conviction, the Department issued its Notice of Agency and Order denying Respondent’s license application.

9. On May 11, 2023, Respondent timely requested a hearing pursuant to Utah Code Sec. 63G-4-203(1)(i) and Utah Admin Code, R590-160-7(1) by filing a written request.

10. A prehearing conference was conducted on May 19, 2023, during which the Presiding Officer and Department’s counsel advised the Respondent regarding the requirement to secure consent of the Insurance Commissioner, and the procedure for seeking the same.

11. On June 2, 2023, the Commissioner, in conjunction with the Department’s Sec. 1033 Advisory Committee, gave approval to apply for licensure to Respondent as required by 18 U.S.C. Sec. 1033.

12. During the Advisory Committee’s consideration of Respondent’s request for Commissioner approval, several old unpaid civil judgments against Respondent were discovered.

These judgments include a 2008 judgment for \$3,445.66 in favor of an apartment owner; a 2009 judgment for \$1,852.88 in favor of an apartment owner; and a 2012 judgment for \$584.16 in favor of a debt collection agency<sup>1</sup>

13. Respondent did not pay any of the above civil judgments within 60 days after the judgments became final.

14. Respondent believed the above judgments were not timely renewed by the judgment creditors, and therefore are no longer enforceable against her.

15. There is no evidence that the civil judgments set forth in the Department's Amended Declaration were appealed, were not final judgments, or were invalid in any respect.

16. The Commissioner's June 2, 2023 letter to Respondent granting approval to apply or licensure under Sec. 1033 contained the following proviso: "Please note that this approval does not guarantee that you will be issued an insurance license." Similarly, during the evidentiary hearing, Department's counsel explained that the Commissioner's approval merely allows Respondent to apply for a license and does not mean a license has been granted.

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<sup>1</sup> Evidence of the previously unknown civil judgments was introduced by the Department into the record through an Amended Declaration of Randy Overstreet filed June 27, 2023. The amended declaration set forth the specifics of the three civil judgments. The Department did not file a new or amended Notice of Agency Action and Order in relying on the amended declaration, as it should have done, even though the original Notice of Agency Action and Order were not based on the facts alleged in the amended declaration. This raises a question as to whether the allegations of the amended declaration are properly presented to this tribunal. The Presiding Officer determines that the facts alleged in the amended declaration were properly considered in this case. Utah Admin. Code. R590-160-5(4)(c) provides that a pleading before this tribunal may be amended pursuant to Utah Rules of Civil Procedure, rule 15, which provides in part: "When an issue not raised in the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings." URCP, Rule 15(b)(1). Here, Respondent was furnished with the amended declaration approximately five weeks prior to the evidentiary hearing, responded to it in a written Answer, and was prepared to address the allegations of unpaid judgments during the evidentiary hearing. Therefore, the issue of unpaid judgments was tried by implied consent of the parties and the issue is treated as if set forth in the Department's original pleading.

17. Respondent testified that she was still confused and thought the Commissioner's approval means she would be granted an insurance license.

18. An applicant for licensure by the Department who fails to pay a valid civil judgment within sixty days after the judgment becomes final is of significant concern to the Department because insurance licensees routinely handle customer funds, and therefore the Department attempts to ensure that licensees are vetted to be 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)(iv), states: "The [insurance] commissioner may [deny a license application] if the commissioner finds that the ... license applicant: ... (iv) fails to pay a final judgment rendered against the [applicant] within 60 days after the day on which the judgment became final." Thus, the fact that the civil judgments were not timely renewed is irrelevant to this matter. Respondent is in violation of this provision of the Insurance Code. This statute does not provide exceptions for circumstances demonstrating that a license applicant was subject to personal or financial hardships which interfered with her ability to pay a final civil judgment.

2. The Insurance Code also does not make an exception to the 60-day payment rule for civil judgments that have languished for years without enforcement efforts and have not been renewed, thereby becoming unenforceable. The fact that the three civil judgments in this case may have not been renewed and are no longer enforceable is irrelevant. The judgments in this case were entered by courts, became final and were not paid within 60 days of becoming final, requiring the Department to invoke the above provision of the Insurance Code and deny

Respondent's license application.

3. Respondent's confusion regarding the import of the Commissioner's approval is not reasonably taken under the circumstances. The Commissioner's letter of approval expressly stated that "this approval does not guarantee that you will be issued an insurance license." After clearing the hurdle of the Commissioner's Sec. 1033 approval, Respondent's license application was still subject to scrutiny regarding the unpaid civil judgments.

4. Therefore, the Department correctly determined that Respondent failed to pay multiple final civil judgments within the time permitted by the Insurance Code, and that her application for licensure is subject to denial in accordance with Utah Code, Sections 31A-23a-111(5)(a)(iv) and 31A-23a-111(5)(b)(iv).

#### ORDER

Based upon the foregoing, the Department's May 11, 2023 Notice of Agency Action and Order denying Respondent's March 31, 2023 application for licensure renewal is AFFIRMED.

DATED this 24<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

**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** was sent via electronic email  
to:

Cheyenna Dawn Brule  
[REDACTED]  
[REDACTED]  
[REDACTED]

Shelley A. Coudreaut  
Assistant Attorney General  
[sacoudreaut@agutah.gov](mailto:sacoudreaut@agutah.gov)  
160 East 300 South, 5th Floor  
PO Box 140874  
Salt Lake City, UT 84114-0874

DATED this 24<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.