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**BEFORE THE UTAH INSURANCE COMMISSIONER**

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**UTAH INSURANCE DEPARTMENT,**

Complainant,

vs.

**TYLER BRETT CHATWIN,**

Respondent

**AMENDED FINDINGS OF FACT,  
CONCLUSION OF LAW**

**and  
ORDER**

Docket No. 2023-4545

Donald H. Hansen

Administrative Law Judge/Presiding Officer

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**BACKGROUND**

Respondent Tyler Brett Chatwin (“Respondent”) applied for licensure with the Utah Insurance Department (“Department”) on August 21, 2023, as a resident limited lines individual insurance producer. The Department issued its Notice of Agency Action and Order on September 21, 2023, denying Respondent’s application based upon a Class B misdemeanor theft conviction against Respondent entered on November 26, 2018.

Respondent timely filed a request for an evidentiary hearing on September 29, 2023.

The Presiding Officer conducted an evidentiary hearing on October 24, 2023. All witnesses and counsel appeared via Google Meet video conferencing. Respondent appeared and was not represented by counsel. The Department was represented by Helen Frohlich, Assistant Utah Attorney General. Appearing as a witness for the Department was its Manager of Producer Licensing, Randy Overstreet.

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 limited lines individual insurance producer on August 21, 2023, and completed a Department license application form.

2. In responding to questions in the Department's application form, Respondent incorrectly answered "no" 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 against Respondent for retail theft, a Class B misdemeanor, entered on November 26, 2018 in Utah Fourth District Court, Spanish Fork Department, docket number 181301289.

5. Around the time of the retail theft incident, Respondent was providing care for his seriously ill father.

6. On the date of his misdemeanor conviction, the court placed Respondent on unsupervised probation for 12 months and ordered him to pay a \$400 fine, which he paid on July 26, 2019.

7. Respondent's probationary period ended on November 26, 2019. Respondent was under the erroneous impression that his theft conviction would be automatically removed from his record when his probation was terminated, which led him to answer "no" when asked about a

misdemeanor conviction in the Department's application form.

8. Respondent now realizes that the termination of his probation was not the same as expungement of his court record. He regrets the theft incident and answering "no" on the Department's application form.

9. On September 21, 2023, based on Respondent's 2018 misdemeanor theft conviction, the Department issued its Notice of Agency and Order denying Respondent's license application.

10. On September 24, 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.

11. An applicant for licensure by the Department who has been convicted of theft is of significant concern to the Department because insurance licensees routinely act as fiduciaries, entrusted to 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 insurance consumer.

### **CONCLUSIONS OF LAW**

1. The Utah Insurance Code, Utah Code Section 31A-23a-111(5)(b)(xiv), states: "The [insurance] commissioner may [deny a license application] if the commissioner finds that the ... license applicant ... has been convicted of ... (B) a misdemeanor involved fraud, misrepresentation, theft or dishonesty[.]" As a result of his misdemeanor theft conviction, Respondent is ineligible to obtain licensure by the Department until the expiration of the waiting period described below.

2. Utah Administrative Rule R590-281-4(1)(e)(iii) provides that an applicant who has been convicted of a Class B misdemeanor is not eligible to apply for licensure by the Department until a period of four years has passed from the date he or she was released from probation, which in this case would mean the four-year waiting period will end on November 26, 2023.

3. While it is understood that Respondent was under personal stress around the time of the retail theft incident while caring for his ill father, neither the Utah Insurance Code nor the Department's administrative rules provide exceptions to the disqualification arising from a criminal conviction, or a reduction in the waiting period, based on challenging personal or financial circumstances.

4. Respondent's confusion regarding whether the termination of his probation would clear the theft conviction from his record is understandable but, again, neither the Insurance Code nor Department rules provide an exception based on such a mistaken understanding.

5. Therefore, the Department correctly determined that Respondent had been convicted of a Class B misdemeanor theft, and that the four-year waiting period provided by Administrative Rule R590-281-4(e) had not yet expired, and therefore that his 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)(xiv)(B). Respondent will be eligible to file a new application with the Department on and after November 26, 2023.

## **ORDER**

Based upon the foregoing, the Department's September 21, 2023, Notice of Agency Action and Order denying Respondent's August 21, 2023, application for resident limited lines individual licensure is AFFIRMED.

DATED this 1<sup>st</sup> day of November 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  
**AMENDED FINDINGS OF FACT, CONCLUSION OF LAW and ORDER** electronically  
mailed to:

Tyler Brett Chatwin  
[REDACTED]  
[REDACTED]  
[REDACTED]

Helen Frohlich, Esq.  
[hfrohlich@agutah.gov](mailto:hfrohlich@agutah.gov)  
160 E. 300 S., 5th Floor  
P.O. Box 140874  
Salt Lake City, UT 84114-0874

DATED this 1<sup>st</sup> day of November 2023.

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