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Department of Insurance
State of Idaho

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BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of the Application for Resident
Producer License of:

WILLIAM CRAFTON, aka WILLIAM
JAMES CRAFTON III,

Applicant.

Docket No. 18-2651-10

**HEARING OFFICER'S FINDINGS
OF FACT, CONCLUSIONS OF LAW
AND PRELIMINARY ORDER**

This matter came before the Hearing Officer on a evidentiary hearing on November 22, 2010 at 2:00 p.m. John Keenan, Deputy Attorney General, appeared on behalf of the Department of Insurance. William Crafton appeared telephonically representing himself.

FINDINGS OF FACT

I.

1. On September 20, 2010, William Crafton, also known as William James Crafton, III, submitted an online application to the Department of Insurance for a resident producer insurance license. Department of Insurance, Exhibit 1.

2. On September 28, 2010, supplemental material was submitted on behalf of Mr. Crafton by his employer C3/CustomerContactChannels. This supplemental material contained information regarding two criminal judgments entered against Mr. Crafton, criminal docket listings, probation services memoranda and Mr. Crafton's divorce decree from 2006. Department of Insurance Exhibit 3.

3. On October 1, 2010, the Department of Insurance sent a letter to Mr. Crafton denying his application for a resident producer license. The letter noted two criminal offenses for which Mr. Crafton had been convicted and his current probation status. Further referenced by the Department was a child support obligation which was in arrears. The Department also noted that no repayment plan existed for the child support obligation arrearage. The Department advised Mr. Crafton it was denying his application based upon Idaho Code Section 41-1016(1) which allows the Department to deny applications when the applicant has been convicted of a misdemeanor, evidencing "bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public; or one who fails "to comply with an administrative or court order imposing a child support obligation." Department of Insurance Exhibit 5.

4. Mr. Crafton was convicted on September 29, 2009 of the charge of petty theft and was placed on probation for a total of seventeen months. Department of Insurance Exhibit 3.

5. Mr. Crafton was convicted of the offense of possession of paraphernalia on March 8, 2010 and placed on probation for twelve months. Department of Insurance Exhibit 3.

6. Mr. Crafton offered a letter to the Department of Insurance which was filed with the Department on October 26, 2010 providing an explanation of his background and the nature of the criminal charges, his child support arrearage, and current employment status. This correspondence was interpreted by the Department as a request for a hearing, pursuant to Idaho Code Section 41-232A. Department of Insurance Exhibit 4.

CONCLUSIONS OF LAW

1. Pursuant to Idaho Code Section 41-1016(1) the Department of Insurance has the authority to deny an applicants' request for a residence producer license based upon the following:

(f) Being convicted of or pleading guilty to any felony, or to a misdemeanor which evidences bad moral character, dishonesty, a lack of integrity and financial responsibility, or an unfitness and inability to provide acceptable service to the consuming public; and
(m) failing to comply with an administrative or court order imposing a child support obligation...

2. Evidence was presented by the Department through testimony of the Bureau Chief for consumer services, Gina McBride as to the application examination process and the review undertaken by the Department of submitted materials filed by an applicant and the determination of qualifications. Testimony provided by Ms. McBride established that Mr. Crafton freely volunteered information pertaining to his background and the circumstances regarding the two criminal convictions. Furthermore Mr. Crafton provided full disclosure of information regarding the child support obligation arrearage. No allegations of misrepresentation or a failure to provide full disclosure of pertinent information has been made by the Department against Mr. Crafton.

3. During the application process Mr. Crafton has endeavored to be forthcoming and fully compliant in providing pertinent information considered in his producer application. At hearing Mr. Crafton evidenced an openness and frankness which corresponded with his disclosures made during the application process.

4. In his response correspondence sent to the Department of Insurance following the denial of his application, Mr. Crafton has contended that the decision of the Department was arbitrary.

5. The provisions in Idaho Code Section 41-1016(1), providing for the licensing and regulation of an insurance producer represent an exercise of the police power of the State. *Williams v. O'Connell*, 76 Idaho 121, 278 P2d 196 (1954). Pursuant to Idaho Code Section 41-1016(1) the Director of the Department may refuse issuance of a license when an applicant has been convicted of a misdemeanor within the designated groupings.

6. The misdemeanors for which Mr. Crafton was convicted are within the purview of Idaho Code Section 41-1016(1). The concerns of the Department for the safety of the public under Idaho Code Section 41-113 are legitimately exercised under Idaho Code Section 41-210 and in the application of the provisions of Idaho Code Section 41-1016(1). Failure to meet the qualifications and restrictions imposed upon applicants may be used as sufficient grounds for the denial of a license application. It is not apparent from the evidence submitted in this matter that the Department inappropriately or arbitrarily applied the discretion which it has in the inquiry and ultimate determination of compliance with licensing requirements. The evidence presented fails to establish that this power was improperly exercised.

7. As noted by the Department, Mr. Crafton is still at present under probation for the criminal matters of which he was convicted. Though he remained open and honest about his record and current status, the disclosure does not obviate the public safety concerns of the Department. The nature of these offenses and the relative recent time frame of when they occurred support the Department's determination.

8. These factors are further combined with the arrearage in his child support obligations and provide appropriate grounds to deny issuance of a license to Mr. Crafton.

PRELIMINARY ORDER

Based upon the foregoing, it is hereby ordered that the denial of Mr. Crafton's application for resident producer license by the Department of Insurance is upheld and affirmed.

IT IS SO ORDERED.

NOTIFICATION OF RIGHTS

This is a preliminary order of the Hearing Officer. It can and will become final without further action of the Department of Insurance unless any party petitions for reconsideration before the Hearing Officer or appeals to the Director for the Department of Insurance (or the designee of the Director). Any party may file a motion for reconsideration of this preliminary order with the Hearing Officer within fourteen (14) days of the service date of this order. The Hearing Officer will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See Idaho Code §67-5243(3).*

Within fourteen (14) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration of this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration of this preliminary order, any party may in writing appeal or take exception to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the Director of the Department of Insurance (or the designee of the Director.) Otherwise, this preliminary order will become a final order of the Department of Insurance.

If any party appeals or takes exception to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the Department of Insurance. Written briefs in support of or taking exception to the preliminary order shall be filed with the Director of the Department of Insurance (or the designee of the Director). The Director may review the preliminary order on his own motion.

If the Director of the Department of Insurance (or his designee) grants a petition to review the preliminary order, the Director (or his designee) will allow all parties an opportunity to file briefs in support of or taking exception to the preliminary order and may schedule oral argument in the matter before issuing a final order. The Director (or his designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties for good cause shown. The Director (or his designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to Idaho Code §§ 67-5270 and 67-5272, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) the hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or operates its principal place of business in Idaho, or (4) the real property or personal property that was the subject of the Department's action is located.

This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. *See* Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

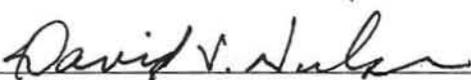
DATED this 6th day of December, 2010.

By: David V. Nielsen
David V. Nielsen
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of December, 2010, I served a true and correct copy of the foregoing by delivering the same to each of the following party, by the method indicated below, addressed as follows:

William Crafton C3 Connect 851 Poleline Road Twin Falls, ID 83301-3037	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile
William Crafton 428 Coswell Ave. W. Twin Falls, ID 83301-3700	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile
John Keenan Deputy Attorney General for Idaho Department of Insurance 700 W. State Street, 3 rd Floor Boise, ID 83720 (208) 334-4283 Fax: (208) 334-4298	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile



David V. Nielsen