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FILED *YJS*

DEC 21 2010

Department of Insurance
State of Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of the)
Application for Resident) Docket No. 18-2645-10
Producer License of:)
)
BRET FELTMAN,) HEARING OFFICER'S FINDINGS
) OF FACT, CONCLUSIONS OF LAW
) AND PRELIMINARY ORDER
)
_____)

This matter came on for an evidentiary hearing on November 30, 2010, at 1:00 p.m. John Keenan, Deputy Attorney General, appeared on behalf of the Department of Insurance. Bret Feltman appeared by phone representing himself.

FINDINGS OF FACT

1. On September 7, 2010, Bret Feltman submitted an on-line Uniform Application to the Department of Insurance for a "Resident Producer License". (Exhibit 1.) The first question on page 3 of the background portion of the application specifically asked:

"Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?" The question is further clarified by the statement: "'Crime' includes a misdemeanor, felony or a military offense. You may exclude

misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses." (Emphasis added.)

In answer to that question, Mr. Feltman answered "no". If the question is answered yes, the applicant must attach a written statement explaining the circumstances of each incident; a copy of the charging document; and a copy of the official document demonstrating the resolution of the charges or any final judgment.

2. Exhibit 2 is an attestation which all applicants must click "I agree" before the application can be submitted online.

3. While investigating Mr. Feltman's application, the Department of Insurance discovered he had been subject to criminal proceedings in Jerome County, Idaho, for a felony DUI in 2008 and a misdemeanor DUI and driving without privileges in 2007. Upon request, Mr. Feltman provided the Department with court repository documents from those criminal cases. On April 27, 2009, Mr. Feltman was sentenced to twenty-one (21) days in jail and was further sentenced to the Idaho penitentiary for a determinate period of two (2) years and an indeterminate period of six (6) years; however, the penitentiary sentence was suspended and Mr. Feltman was placed on eight (8) years of supervised probation.

4. By letter dated September 29, 2010, Gina McBride, the Bureau Chief of Consumer Services, for the Department of Insurance sent Mr. Feltman a letter denying Ms. Feltman's application for an resident insurance producer license. The letter notes Mr. Feltman

was required to report the April, 2009, felony DUI conviction. Based upon the definition of a "conviction" in the Uniform Application, the Department determined Mr. Feltman should have answered the question "yes." The Department advised Mr. Feltman they were denying his application based upon Idaho Code §41-1016(1) which allows the Department to deny an application when an applicant provides incorrect, misleading, incomplete or materially untrue information in the license application or when an applicant is convicted or pleads guilty to a felony.

5. Pursuant to Idaho Code §41-232A, Mr. Feltman requested a hearing in a letter received by the Department on October 13, 2010. He alleges he did not intentionally supply false information and did not intend or try to hide anything in his past.

6. Mr. Feltman presented letters and testified that, when he was first working on the application, he apparently printed a paper copy first and had completed it by first indicating a "yes" answer to the question whether he had been convicted of a felony. That answer was then scratched out and changed to "no". When the online application was submitted, the question was answered "no". Mr. Feltman stated that he answered "no" because his felony conviction may be dropped to a misdemeanor in the future. Nancy Duncan and Anna Morelock with Mr. Feltman's employer, C3, submitted letters indicating that they had advised Mr. Feltman to change his "yes" answer to a "no" answer. Following the hearing, Mr. Feltman also submitted a copy of the transcript of the guilty plea proceedings on March 9, 2009. Those transcripts clearly indicate that,

following successful completion of the probationary term, Mr. Feltman does have the option to come back and ask the Court to change the felony conviction to a withheld judgment or seek a reduction to a misdemeanor. Unfortunately, Mr. Feltman still has many years of probation to complete before he can even apply to have the crime reduced. Consequently, at the time of his application, his 2009 DUI conviction was and is a felony.

7. The evidence establishes Mr. Feltman did provide incorrect, misleading, incomplete and materially untrue information in his license application and had pled guilty to a felony.

8. The fact that Mr. Feltman thought he did not have to disclose the conviction because the charges may be reduced to a misdemeanor in several years does not provide a defense.

CONCLUSIONS OF LAW

9. Pursuant to Idaho Code §41-1016(1)(a), the Department of Insurance has the authority and grounds to deny Mr. Feltman's application for an Idaho Individual Insurance Producer License.

PRELIMINARY ORDER

Based upon the foregoing, IT IS HEREBY ORDERED That the denial of the application of Mr. Feltman by the Department of Insurance for an Individual Insurance Producer License is UPHeld and AFFIRMED.

DATED This 20 day of December, 2010.

JEAN R. URANGA

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Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 20 day of December, 2010, I served true and correct copies of the foregoing HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

Bret Feltman
C3 Connect
851 Poleline Road
Twin Falls, Idaho 83301-3037
**(Regular mail and certified mail
return receipt requested)**

John C. Keenan
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