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FILED

MAY 09 2013

Department of Insurance  
State of Idaho

TJ

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

STATE OF IDAHO, DEPARTMENT OF )  
INSURANCE, ) Docket No. 18-2854-13  
)  
Complainant, ) HEARING OFFICER'S FINDINGS  
) OF FACT, CONCLUSIONS OF LAW  
-vs- ) AND PRELIMINARY ORDER  
)  
PHILLIP SAMUEL MONTANO, an )  
individual holding Idaho )  
Non-resident Insurance )  
Producer License No. 363859, )  
)  
Respondent. )  
\_\_\_\_\_ )

This matter came on for an evidentiary hearing on April 19, 2013, at 9:00 a.m. René Martin, Deputy Attorney General, appeared on behalf of the Department of Insurance. Phillip Montano failed to appear either in person or by telephone. Several unsuccessful efforts were made to contact Mr. Montano by telephone.

### FINDINGS OF FACT

1. On November 15, 2010, Mr. Montano submitted an on-line Uniform Application to the Department of Insurance for a "Non-Resident Producer License". (Exhibit C.) 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.

In answer to that question, Mr. Montano 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. Mr. Montano's license for Non-Resident Producer License was granted on November 17, 2010.

3. Thereafter, the Idaho Department of Insurance became aware of an action through the California Department of Insurance in which an action was filed against Mr. Montano for failing to disclose two prior criminal convictions on his California application. That pleading was as admitted as Exhibit D and is dated April 11, 2011.

4. On October 23, 2012, the Administrative Law Judge for the State of California issued a proposed decision denying Mr. Montano's license to act as a personal lines broker-agent in the

State of California. (Exhibit E.) The Insurance Commissioner for the State of California issued a Decision and Order on December 6, 2012, adopting the proposed Decision of the Administrative Law Judge. Based upon that California action, the State of Idaho became aware of the Respondent's undisclosed criminal convictions.

5. The Department of Insurance conducted further investigation and found that Mr. Montano had been convicted of the criminal charge of issuing a bad check on December 21, 2005. (Exhibit A.) He was also convicted of unlawful imprisonment and reckless endangerment on May 14, 2008. (Exhibit B.) He failed to disclose both of these convictions on his Idaho application.

6. After California instituted proceedings against Mr. Montano, he posted a notice on the "Warehouse" on July 13, 2012 disclosing the criminal convictions. (Exhibit G.)

7. Mr. Montano also sent a letter to the State of Idaho dated January 24, 2013, acknowledging that he had failed to disclose the criminal convictions on his Idaho application. (Exhibit H.)

8. The evidence establishes Mr. Montano did provide incorrect, misleading, incomplete and materially untrue information in his license application, had been convicted of three crimes and had an application denied in California.

### **CONCLUSIONS OF LAW**

9. Pursuant to Idaho Code §41-1016(1)(a), (f) and (i) the Department of Insurance has the authority and grounds to revoke Mr.

Montano's Idaho Non-Resident Producer License.

**PRELIMINARY ORDER**

Based upon the foregoing, IT IS HEREBY ORDERED That the license of Mr. Montano issued by the Department of Insurance for an Non-Resident Producer License should be REVOKED.

DATED This 8 day of May, 2013.

**JEAN R. URANGA**

JEAN R. URANGA  
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 8 day of May, 2013, 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:

Phillip Samuel Montano  
140 W. Linden Street, Apt. 7  
Rome, New York 13440

A. René Martin  
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