

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
233 RICHMOND STREET  
PROVIDENCE, RHODE ISLAND 02903**

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**IN THE MATTER OF:**

**ALINA CIMAN,**

**RESPONDENT.**

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**DBR No.: 06-I-0206**

**DECISION**

Hearing Officer: Michael P. Jolin, Esq.

Hearing Held: November 27, 2006

Appearances:

For Respondent: Alina Ciman, *Pro se*

For the Department: Elizabeth Kelleher Dwyer, Esq.

**I. INTRODUCTION**

On July 31, 2006, Respondent Alina Ciman (“Respondent”) applied for an insurance producer’s license in accordance with R.I. Gen. Laws § 27-2.4-8. The Department of Business Regulation’s Insurance Division (“Department”) denied her application on October 23, 2006 pursuant to R.I. Gen. Laws § 27-2.4-14(a)(6) because Respondent pled *nolo contendere* to “embezzlement/ fraudulent conversion over \$100” on January 31, 2005. Respondent made a timely request for a hearing in a letter received on November 8, 2006.

The pre-hearing conference was held on November 27, 2006. Respondent appeared at the hearing *pro se*. The Department requested that the parties waive the pre-hearing conference and

proceed directly to a hearing of the matter on the merits. Respondent agreed to waive her right to a pre-hearing conference and the undersigned granted the Department's request.

Based on the evidence presented at the hearing and the applicable law, Respondent has demonstrated that she is worthy of licensure on a probationary basis under the statutory framework and the relevant factors set forth in the case, *In the Matter of William J. Stanton*, DBR No. 98-L-0035 (December 15, 1998).

## **II. JURISDICTION**

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § 27-2.4-1, *et seq.*, R. I. Gen. Laws § 42-14-1, *et seq.*, and R.I. Gen. Laws § 42-35-1, *et seq.*

## **III. ISSUE**

The issue presented in this matter is whether or not Respondent's application for an insurance producer's license should be denied pursuant to R.I. Gen. Laws § 27-2.4-14(a)(6).

## **IV. MATERIAL FACTS AND TESTIMONY**

The Department presented no witnesses at hearing. Instead, it relied solely on four exhibits, admitted into evidence without objection, to support its case for the denial of Respondent's application for an insurance producer's license.

The first exhibit is the Department's letter, dated October 23, 2006, notifying Respondent that the Department denied her application. The letter states that her license was denied pursuant to R.I. Gen. Laws 27-2.4-14(a)(6)<sup>1</sup> because of her felony conviction for embezzlement/fraudulent conversion. It also notified Respondent that she had a right to a full administrative hearing to

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<sup>1</sup> R.I. Gen. Laws § 27-2.4-14(a)(6) provides, in pertinent part: The insurance commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy an administrative penalty in accordance with § 42-14-16 or any combination of actions, for...[h]aving been convicted of a felony.

appeal the Department's denial. Attached to this first exhibit is Respondent's letter, dated November 2, 2006, in which she timely requested a hearing.

The Department's second exhibit is Respondent's letter to the Department, dated July 31, 2006, in which she explained the circumstances of the charges filed against her. In this letter, Respondent states that in 2002 and 2003 she was employed by Whitehall Jewelers, first as a sales associate and later as a diamond specialist, a diamond sales associate, and finally as an assistant manager. She explained that because of the store manager's cancer diagnosis and sick leave in 2003 she assumed the management duties of the store. During this time, she hired a temporary employee to work at the store. According to Respondent's letter, this employee stole money and jewelry from the store totaling over \$7,600.00. By the time the loss was discovered, the temporary employee was no longer working at the store.

The letter goes on to explain that Respondent met with the district manager, who asked her to sign certain documents that Respondent thought were related to the insurance claim for the money and items stolen. Respondent states the papers she signed turned out to include some sort of confession or acknowledgement that implicated her in the theft. This confession was used to charge her with embezzlement.

Respondent then recounts that she hired an attorney to represent her but, because of the "confession" she signed, she felt she had no choice but to enter into a plea agreement. In exchange for a deferred sentence of five (5) years, she agreed to make restitution payments for the missing cash. She ends the letter by stating that she is a full-time student at the University of Rhode Island ("URI") and is currently employed by AAA Insurance Agency, a licensee of the Department.

The Department's third exhibit contained copies of R.I. Gen. §§ 11-41-3 and 11-41-5, the pertinent sections of the criminal statutes regarding theft and embezzlement.

As a fourth exhibit, the Department presented Respondent's Criminal History Record from the Department of Attorney General, obtained as part of the application process. The exhibit also contains the criminal complaint that led to Respondent's arrest, a Judgment of Civil Liability, dated January 31, 2005, a Justice of the Peace Appearance Form regarding the bail set, and the Deferred Sentence Agreement, which Respondent signed and dated on January 31, 2005.

Respondent's Criminal History Record contains only one entry, a charge of embezzlement/fraudulent conversion on November 13, 2003. It does not show the case's disposition but the Judgment of Civil Liability and the Deferred Sentence Agreement provides this information. The former requires Respondent to pay Whitehall Jewelers restitution of \$6,900, with an initial payment of \$1,000 and monthly payments of \$110 thereafter until the balance is paid. Based on the date of the Judgment's execution, Respondent should be making her final restitution payment in July 2009. The Deferred Sentence Agreement indicates that the Court placed Respondent on probation for a period of five (5) years during which time she would make timely restitution payments, remain steadily employed, and obey all laws.

Respondent testified at the hearing on her own behalf. She reiterated the details surrounding her arrest as set forth in her January 31, 2006 letter to the Department. Respondent added that when the incident occurred she was not yet fluent in English because she had only been residing in the United States for about four (4) years. She also admitted that she did not read the document that implicated her in the theft before she signed it. Because she signed it, Respondent stated that she could not prove that she did not commit the embezzlement. As such,

she agreed to the five-year deferred sentence and restitution schedule. Respondent noted that she never received a copy of the document implicating her.

At the hearing, Respondent submitted a letter from Candace Abenante, the customer service manager of AAA Insurance Agency, Inc., and a licensee of the Department. In her letter, Ms. Abenante attests to Respondent's good character and recommends her for licensure. The letter also states that Respondent has worked at the insurance agency since July 2005.

Upon the conclusion of her testimony, the undersigned continued the hearing for a period of two weeks to give Respondent the opportunity to consider engaging an attorney and to provide her an opportunity to submit other documents to support her case. No entry of appearance for Respondent was ever submitted but Respondent did provide two letters subsequent to the hearing. The first letter was from Magistrate Patricia Lynch Harwood, dated November 30, 2006, advising the undersigned that Respondent is current with her monthly restitution payments and has appeared for all scheduled court appearances. Respondent also provided a second letter from Francis Cohen, Dean of Students at the University of Rhode Island, dated December 4, 2006, verifying Respondent's enrollment as a student at URI and attesting to her dedication as a student.

## **V. DISCUSSION**

In the case *sub judice*, the undersigned finds that Respondent sufficiently established that her license application should be granted on a probationary basis under the statutory framework and the *Stanton* criteria as set forth below.

### **A. Statutory Framework**

R.I. Gen. Laws § 27-2.4-14(a)(6) provides that the insurance commissioner *may* place on *probation*, suspend, revoke or refuse to issue or renew an insurance producer's license for having

been convicted of a felony. The use of the verb “may” indicates that the denial of the application at issue is discretionary and requires an evaluation of the facts and circumstances of the context of each license application.

Further support for the Department’s discretion in considering Respondent’s application can be found in 18 U.S.C. § 1033(e). While not raised during the hearing, this law has some bearing on this matter. This statute essentially prohibits a person convicted of a criminal felony involving dishonesty or a breach of trust from engaging in the business of insurance. See 18 U.S.C. § 1033(e)(1)(A). Nevertheless, it allows such a person to “engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.” 18 U.S.C. § 1033(e)(2). This provision of federal law clearly contemplates that, under certain circumstances, a regulator might find that licensure is appropriate even when a person has been “convicted of a criminal felony involving dishonesty or a breach of trust.” See 18 U.S.C. § 1033(e)(1)(A) and (e)(2).

At the hearing, the Department confirmed this approach, explaining that it does not automatically deny applicants who have a criminal conviction. Rather, the Department looks at the nature of the felony, the amount of time that has passed between the misconduct and the application, and other mitigating factors. In Respondent’s case, the Department stated that it denied her application because of the serious nature of the felony at issue and the amount of time that has passed since her conviction.

**B. Basis for Probationary Licensure in Light of Statutory Scheme and Departmental Precedent**

Given the express discretionary language in R.I. Gen. Laws § 27-2.4-14(a)(6) and 18 U.S.C § 1033, it is well within the purview of the Hearing Officer to consider whether a license

application should be denied in light of an applicant's criminal history. Indeed, this is familiar territory for the Department in its administrative hearings. In traversing this ground, we are guided by the framework provided in the seminal Departmental case on this subject, *In the Matter of William J. Stanton*, DBR No. 98-L-0035 (December 15, 1998). This decision sets forth the relevant factors germane to an applicant's plea for reconsideration when the Department denies the application because of an applicant's criminal history. These factors include: (1) the nature and circumstances of the applicant's misconduct; (2) the applicant's present character, including subsequent conduct and evidence of reformation; and (3) the applicant's present qualifications to hold the license. *Id.*

With respect to the first factor – examining the nature and circumstances of the applicant's misconduct – inquiry is made with regard to: (i) when the misconduct took place; (ii) whether the misconduct was a misdemeanor or a felony; (iii) the type of sentence imposed; (iv) the age of the applicant at the time of the misconduct; (v) the applicant's explanation for committing the misconduct and his or her acknowledgment of responsibility for the crime; and (vi) whether the misconduct relates to the license for which the applicant has applied. *Id.*

The second factor requires the Hearing Officer to look at the applicant's present character, including subsequent conduct and evidence of reformation. Considerations here include: (i) whether the applicant has completed his or her criminal sentence or administrative sanction; (ii) whether the applicant has taken responsibility for the wrongdoing and expressed remorse; (iii) whether the applicant has made restitution for any claims arising from the misconduct; and (iv) whether non-family members aware of the applicant's misconduct have attested to his or her good character. *Id.*

Assuming the applicant crosses the first two *Stanton* thresholds, scrutiny is given to the third area of examination: the applicant's qualifications and competence for the license requested. *Stanton* instructs the Hearing Officer to consider: (i) whether the applicant is currently employed in the desired profession; (ii) whether a current licensee is willing to sponsor the applicant; and (iii) whether the applicant would accept a probationary or temporary license.

1. *The First Stanton Factor: The nature and circumstances of the applicant's misconduct.*

With respect to the first factor, the evidence shows that the Department was justified in its reluctance to license Respondent. The misconduct committed was a felony. While the misconduct does not relate to the license for which she is applying per se, it does relate to the handling of money and being responsible for funds. More importantly, any crime charged relates to a person's character and an applicant's suitability to be granted the public's trust that a license bestows.

Notwithstanding these factors, there are mitigating circumstances worthy of consideration. Aside from the conviction at issue, Respondent has an otherwise clean criminal record. Additionally, Respondent was twenty (20) years old when she was charged for the crime of embezzlement in November 2003. She pled *nolo contendere* to resolve the matter and agreed to pay restitution for the amount of cash stolen. Her youth and inexperience undoubtedly played a role in how she handled herself with this situation. However, it is notable that she took responsibility for her former employer's loss.

It is well established that a plea of *nolo contendere* does not expressly admit guilt. See *North Carolina v. Alford*, 400 U.S. 25, 35 (1970). Nonetheless, Respondent waived her right to a trial and authorized the court to treat her as if she were guilty. While such a plea is considered an implied confession of guilt, see *Nardone v. Mullen*, 322 A.2d 27, 29 (R.I. 1974), there was no

adjudication of the facts at a trial upon which we can rely here. The absence of adjudicated facts here presents an interesting challenge under the *Stanton* analysis because of the Department's objection to the consideration of Respondent's version of the facts underlying the conviction.

Pursuant to *Stanton*, it is imperative to give due consideration of an applicant's explanation of the misconduct and acknowledgment, if any, of the applicant's responsibility for the wrongdoing. The reasons for doing so are obvious. Allowing the applicant to account for his or her actions provides him or her a meaningful opportunity to be heard, informs the Hearing Officer as to the applicant's credibility, and provides context to understand the full nature and circumstances of the misconduct as it relates to the appropriateness for licensure. Moreover, the statutory mandates of § 27-2.4-14(a) and 18 U.S.C. § 1033 explicitly allow the Department to exercise discretion in these matters. But to exercise such discretion in a manner that does justice, Respondent's explanation must be considered in order to assign it the proper weight in the decision-making process.

The Department objects to any consideration of Respondent's explanation based on *Retirement Board of the Employees' Retirement System of the State of Rhode Island v. Edward D. DiPrete, et al.*, 845 A.2d 270 (R.I. 2004). The Department argues that this case precludes the Hearing Officer from taking Respondent's account under advisement. The Hearing Officer disagrees and finds that *DiPrete* is distinguishable from the instant matter.

In *DiPrete*, the Retirement Board revoked the ex-governor's pension, including his wife's rights to her share of it, after he pled guilty to eighteen (18) criminal offenses, primarily racketeering charges, arising out of his service as governor. *DiPrete*, 845 A.2d at 276-277. On appeal, the Superior Court affirmed the revocation of the former governor's pension and related benefits but ordered the return of his retirement contributions. *Id.* Both parties appealed this

judgment to the Supreme Court. There, the Court affirmed the lower ruling to the extent that it revoked the governor's pension but reversed the denial of the wife's claim to a share of benefits. *Id.* at 297-298.

In dicta, the *DiPrete* Court does state that Mr. DiPrete's plea has some bearing on the Board's revocation action because of § 7-15-4(d), which provides:

A final judgment or decree rendered in favor of the state in any criminal proceeding brought by the state under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the state.

This provision is part of the RICO statute that allows the attorney general to institute certain civil proceedings<sup>2</sup> against a defendant convicted of RICO charges. Thus, the Court noted that the “essential allegations of the criminal offense” were conclusively established against Mr. DiPrete in this revocation action and **thus satisfies the requirements of § 7-15-4(d).** *DiPrete*, 845 A.2d at 282. [Emphasis added.] Given that Respondent's criminal matter is not a RICO case, this dicta is not considered relevant to the instant case.<sup>3</sup>

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<sup>2</sup> R.I. Gen. Laws § 7-15-4(a) gives the Superior Court jurisdiction to issue appropriate orders, such as:

- (1) Ordering any person to divest him or herself of any interest, direct or indirect, in any enterprise;
- (2) Imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in; or
- (3) Ordering dissolution or reorganization of any enterprise, making due provisions for the rights of innocent persons.

<sup>3</sup> Curiously, the *DiPrete* Court references *United States v. Benson*, 579 F.2d 508, 509 (9th Cir. 1978), which held that a guilty plea “conclusively admits all factual allegations of the indictment.” The *Benson* case is distinguishable for two reasons. First, it involved an appeal of the same criminal case and concerned alleged constitutional deprivations. See *Benson*, 579 F.2d at 509-510. Second, the rule articulated in *Benson* appears to conflict with one of the factors used by the *DiPrete* Court to determine the applicability of collateral estoppel. See *DiPrete*, 845 A.2d at 282 (“the issue must actually have been litigated in the prior proceeding”).

Relying on *DiPrete*, the Department asserts that a criminal conviction is an admission of the underlying facts of the conviction. As such, Respondent cannot subsequently argue different facts in this administrative proceeding to collaterally attack her conviction. In other words, the Department contends that the doctrine of collateral estoppel bars consideration of Respondent's explanation of the facts and circumstances of the misconduct as a matter of law. Practically speaking, the Department's argument, if correct, would undercut one of the primary considerations of the *Stanton* analysis.

Under the doctrine of collateral estoppel, also known as issue preclusion, certain legal and factual issues litigated and resolved in a previous action may not be relitigated in a subsequent action. *DiPrete*, 845 A.2d at 282. Collateral estoppel applies if there is "(1) an identity of issues; (2) a final judgment on the merits; and (3) an establishment that the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior action." *Id.* (quoting *Providence Teachers Union v. McGovern*, 319 A.2d 358, 361 (1974)). The *DiPrete* Court sets forth three factors used to determine whether a party is attempting to relitigate an issue already decided: (1) the issue sought to be precluded must be identical to the issue determined in the earlier proceeding, (2) the issue must actually have been litigated in the prior proceeding, and (3) the issue must necessarily have been decided. *Id.* (citing *E.W. Audet & Sons v. Fireman's Fund Ins. Co.*, 635 A.2d 1181, 1186 (R.I. 1994)). If all three considerations are met, the doctrine of collateral estoppel precludes another adjudication of the issue.

When the Court analyzed the ex-governor's situation, it determined that the doctrine of collateral estoppel did not apply.

Mr. DiPrete's criminal case ended when he entered his plea of guilty. Thus, no issues actually were decided by a finder of fact after trial and, consequently, the Retirement Board was not collaterally estopped from litigating any issues that may have arisen in the criminal case. *Id.*; see also *Gall v. South Branch National*

*Bank of South Dakota*, 783 F.2d 125, 127 (8th Cir. 1986) (noting that collateral estoppel is “premised on a finding that there has been an adjudication *on the merits* in a prior proceeding”).

*DiPrete*, 845 A.2d at 282. In dicta, the Court does state that Mr. DiPrete’s plea has some bearing on the Board’s revocation action because of § 7-15-4(d), which provides:

A final judgment or decree rendered in favor of the state in any criminal proceeding brought by the state *under this chapter* shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the state. [Emphasis added.]

This provision is part of the RICO statute that allows the attorney general to institute certain civil proceedings against a defendant convicted of RICO charges. Thus, the Court noted that the “‘essential allegations of the criminal offense’ were conclusively established against Mr. DiPrete in this revocation action and *thus satisfies the requirements of § 7-15-4(d)*.” *DiPrete*, 845 A.2d at 282. [Emphasis added.] Given that Respondent’s criminal matter is not a RICO case, this dicta is not considered relevant to the instant case.<sup>4</sup>

In the present matter, just as in the *DiPrete* case, Respondent’s plea of *nolo contendere* means that the underlying facts of her criminal matter were never adjudicated to determine the issue of her guilt. If an issue was never litigated in the first instance, the doctrine of collateral estoppel cannot apply. *Id.* Equally important, this doctrine requires that the issue in both proceedings be identical. *Id.* That is not the case here. The issue in Respondent’s criminal proceeding was her guilt or innocence of the crime charged. The issue in this administrative

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<sup>4</sup> Curiously, the *DiPrete* Court references *U.S. v. Benson*, 579 F.2d 508, 509 (9th Cir. 1978), which held that a guilty plea “conclusively admits all factual allegations of the indictment.” The *Benson* case is distinguishable for two reasons. First, it involved an appeal of the same criminal case and concerned alleged constitutional deprivations. See *Benson*, 579 F.2d at 509-510. Second, the rule articulated in *Benson* appears to conflict with one of the factors used by the *DiPrete* Court to determine the applicability of collateral estoppel. See *DiPrete*, 845 A.2d at 282 (“the issue must actually have been litigated in the prior proceeding”). Because of this conflict and the fact that this reference comes in the form of dicta, the *Benson* rule is not considered here.

proceeding is the propriety of Respondent's candidacy for licensure. Thus, even if Respondent went to trial and had the underlying facts litigated, collateral estoppel would not pertain here.

With this bar removed, Respondent's explanation is ripe for consideration. Although she states that she did not commit the crime for which she was charged, Respondent does not deny that she was convicted nor is she challenging the conviction here. Rather, she is telling her side of the story as part of the Department's adjudicative process. At the hearing, Respondent testified credibly that she was unaware of the theft until it was brought to her attention. She averred that she signed a document that she believed was related to the insurance claim for the stolen property. Unbeknownst to her, the document turned out to be a confession for the theft. Importantly, Respondent testified that, at that point in time, she had only been in the United States for a few years and, as a result, her facility with the written English language was extremely limited. This presented her with obvious difficulties in dealing with the complex situation in which she found herself.

Examining this evidence with respect to the first of the three *Stanton* factors is key in determining the effect of Respondent's conviction on her ability to conduct business honestly. To do so, the Hearing Officer considered Respondent's explanation of the misconduct, her age at the time she was charged with the crime, her facility with English as her second language, and her demeanor and credibility while testifying. The Hearing Officer finds that there is sufficient evidence on the record that mitigates the Department's justified concerns over Respondent's conviction and warrants further consideration of her license application.

2. *The Second Stanton Factor: The applicant's present character, including subsequent conduct and evidence of reformation.*

With respect to the second prong of the *Stanton* framework, the Hearing Officer finds that Respondent's present character and conduct provide support for granting her a probationary

license. While Respondent denies any wrongdoing with respect to her conviction, she nonetheless accepted responsibility for her former employer's loss. To that end, Respondent has made consistent and reliable restitution payments. She has made substantial progress toward paying down the amount of the judgment and has only two years of payments remaining. She also has dutifully attended all of her court appearances.

Respondent has demonstrated her good character and reliability in other ways as well. She presented two favorable references from noteworthy, non-family members. Respondent obtained a letter from the Dean of Students at the University of Rhode Island, who verified her matriculation at the school and attested that she is a dedicated student. This letter indicates that Respondent has a strong desire for self-improvement and making a better life for herself.

More significantly, she proffered a letter from her current employer, AAA Insurance Agency, a Department licensee. The letter states Respondent has worked there since July 2005 and refers to her as an "asset to our agency." It also provides a strong recommendation for Respondent's licensure, citing her "outstanding ethical character" demonstrated during her employment there. This letter is noteworthy for a couple of reasons. It demonstrates a genuine interest in working in the insurance producer business for which she seeks a license. It also shows that her employer not only thinks well of her but advocates emphatically on her behalf in spite of her criminal conviction.

The support for Respondent in this letter cannot be understated. As licensees of this Department, AAA Insurance Agency and Ms. Abenante are engaged in the insurance business and understand what it means to be a licensee in this business and the trust bestowed upon them for dealing with public fairly and honestly. They have first-hand knowledge of Respondent's

work ethic and character and willingly sponsor her for a license so she can take on more responsibility at their agency.

This evidence of Respondent's present character provides reassurance that she will continue to comport herself in a manner worthy of licensee of the Department.

3. *The Third Stanton Factor: The Applicant's present qualifications to hold the license.*

The third prong of the *Stanton* analysis scrutinizes Respondent's qualifications. As discussed *supra*, Respondent is currently employed in her desired profession. In addition, she has a current licensee of the Department willing to sponsor her. Respondent has successfully completed the property & casualty pre-licensing course and has passed the property and casualty producer examination. These facts weigh heavily in favor of approving Respondent's application under *Stanton*.

## **VI. CONCLUSION**

In examining the three *Stanton* factors *in toto*, the Hearing Officer finds that the circumstances regarding Respondent's conviction mitigate what would otherwise be cause for the denial of her license application. Respondent testified credibly at the hearing. Her conduct since her plea agreement has demonstrated that she would conduct business diligently, earnestly, and honestly. The letters provided on Respondent's behalf not only speak to her efforts to rehabilitate herself but attest to her good character. In considering Respondent's present qualifications, the Hearing Officer notes that Respondent is currently employed in her chosen field, working for an insurance agency licensed by the Department. This employer considers Respondent an "asset" to the company and recommends the Department license her. The Hearing Officer agrees.

## **VII. FINDINGS OF FACT**

1. On July 31, 2006, Respondent applied for an insurance producer's license pursuant to R.I. Gen. Laws § 27-2.4-8.

2. The Department denied her application on October 23, 2006 pursuant to R.I. Gen. Laws § 27-2.4-14(a)(6).

3. Respondent made a timely request for a hearing in a letter received on November 8, 2006.

4. The Department held a hearing on the matter November 27, 2006.

5. The facts contained in Sections IV and V are incorporated by reference herein.

## **VIII. CONCLUSIONS OF LAW**

Based on the testimony and facts presented:

1. The Department has jurisdiction over this matter as set forth in Section II, *supra*.

2. Under statutory framework and the criteria set forth in *Stanton*, Respondent provided sufficient evidence of mitigating factors that warrant the issuance of a probationary insurance producer's license pursuant to R.I. Gen. Laws § 27-2.4-14.

## **IX. RECOMMENDATION**

Based on the above analysis, the Hearing Officer recommends that the Department grant Respondent a probationary insurance producer's license pursuant to R.I. Gen. Laws § 27-2.4-14 if Respondent agrees to the following terms:

A. Respondent agrees to comply with all terms and requirements for licensure under R.I. Gen. Laws § 27-2.4-1, *et seq.*, and the rules and regulations promulgated thereunder.

- B. Respondent agrees to report to the Department any charge, allegation, or complaint that involves any criminal matter, civil matter, or insurance-related matter immediately.
- C. Respondent agrees that her failure to abide by these conditions shall be a basis for revocation of Respondent's license.
- D. Respondent agrees to a probationary license until she completes the obligations under her plea agreement, dated January 31, 2005.
- E. Respondent agrees to inform the Department if her employment with AAA Insurance Agency, Inc., is terminated.
- F. Respondent agrees to provide a copy of this Decision and the terms stated herein to any subsequent employer. The Department reserves its right to inform Respondent's subsequent employer of the facts and conditions stated herein.

Dated: June 5, 2007



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Michael P. Jolin  
Hearing Officer

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby

ADOPT  
 REJECT  
 MODIFY

the Decision and Recommendation.



Dated: June 5, 2007

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A. Michael Marques  
Director

**THIS DECISION CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.**