

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BLDG. 69-2
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:	:	
	:	
JASON HARKINS	:	DBR No. 11-I-0049
	:	
RESPONDENT.	:	

DECISION AND ORDER OF REVOCATION

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: June 30, 2011

Appearances:

For the Respondent: Jason Harkins, *Pro se* (failed to appear).

For the Department: Elizabeth Kelleher Dwyer, Esq.

I. INTRODUCTION

This matter came on for a hearing pursuant to the Department of Business Regulation's ("Department") Order To Show Cause, Notice of Hearing and Appointment of Hearing Officer ("Notice") issued by the Department on June 17, 2011 to the Respondent, Jason Harkins ("Respondent"). The Notice was mailed to the Respondent by certified mail, postage prepaid to his home address in Providence, Rhode Island pursuant to the notice requirements of R.I. Gen. Laws §§ 42-35-9 and 42-35-14. Respondent failed to appear and show cause why his insurance producer license should not be revoked pursuant to R.I. Gen. Laws § 42-14-16 and R.I. Gen. Laws Title 27.

THEREFORE, pursuant to § 21 of CMR2 – *Rules of Procedure for Administrative Hearings*, the Hearing Officer hereby recommends the entry of a default judgment against Respondent for his failure to defend against this action and a revocation of his insurance producer license.

The following documents were entered as full exhibits by the Department at the hearing in this matter:

1. United States Postal Service track and confirm result showing that the Notice was delivered to the Respondent on June 23, 2011.
2. A letter from the Respondent's former employer informing the Department of the Respondent's termination due to the discovery of his prior conviction. See Department's Exhibit Two (2).
3. Respondent's insurance producer license application.
4. Respondent's listing from the State of Connecticut Sex Offender Registry.
5. A letter to Respondent requesting an explanation regarding the letter his former employer sent to the Department. Three (3) United States Postal Service track and confirm results are attached showing that this letter was eventually returned to sender.

II. JURISDICTION

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

III. ISSUE

The issue presented in this matter is whether the Respondent's insurance producer license should be revoked in accordance with the provisions of R.I. Gen. Laws § 27-2.4-14(a)(1),(2),(3),(6) and (8) for violations thereof.

IV. FINDINGS OF FACT

1. All facts contained within the Order To Show Cause, Notice of Hearing and Appointment of Hearing Officer issued to the Respondent on June 17, 2011 are incorporated herein.

2. Respondent is a holder of a Rhode Island insurance producer license number 1072611 with life and health, accident or sickness lines of authority. This license was issued on October 6, 2010 and was set to expire on December 31, 2012.

3. The Insurance Division received notice on May 9, 2011 from the Respondent's former employer that he had been terminated for cause as a result of a failure to disclose a 2007 felony conviction. The former employer had incorrectly stated that the conviction occurred in Rhode Island when in fact it occurred in Connecticut.

4. Respondent was convicted of criminal attempt to commit sexual assault in the second degree and criminal attempt to commit illegal sexual contact of a minor, both on August 10, 2007. This resulted in the Respondent being incarcerated, and placed on the State of Connecticut Sex Offender Registry.

5. Respondent was released from prison on January 26, 2010 and applied for a Rhode Island resident insurance producer license on October 6, 2010. In his application, Respondent provided false information by answering "No" to the question: "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"

6. The Respondent failed to appear at the hearing in this action on June 30, 2011 after being duly notified thereof in accordance with R.I. Gen. Laws §§ 42-35-9 and 42-35-14.

V. CONCLUSIONS OF LAW

1. The Respondent is defaulted and his license revoked pursuant to Section 21 of *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*, which provides:

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer may enter a default judgment against the defaulting Party, take such action based on the pleadings and/or other evidence submitted by the nondefaulting Party as the Hearing Officer deems appropriate in his/her sole discretion.

Respondent failed to appear at the Hearing on June 30, 2011 after being duly notified thereof in accordance with R.I. Gen. Laws §§ 42-35-9 and 42-35-14.

2. R.I. Gen. Laws § 27-2.4-14(a)(1) provides that the insurance commissioner may revoke an insurance producer's license for "providing incorrect, misleading, incomplete or materially untrue information in the license application" and R.I. Gen. Laws § 27-2.4-14(a)(3) provides that the insurance commissioner may revoke an insurance producer's license for "obtaining or attempting to obtain a license through misrepresentation or fraud." The Respondent has violated both of these sections by knowingly providing false information on his application.

3. R.I. Gen. Laws § 27-2.4-14(a)(6) provides that the insurance commissioner may revoke an insurance producer's license for "having been convicted of a felony." The evidence clearly shows that the Respondent has been convicted of two felonies in Connecticut prior to applying for a license in Rhode Island. See Department's Exhibit Four (4). Since the statutory language does not include any temporal limits, or

types of felonies, it is prudent to assume that Respondent's felony convictions fall under this statute's purview.

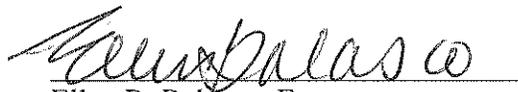
4. R.I. Gen. Laws § 27-2.4-14(a)(8) provides that the insurance commissioner may revoke an insurance producer's license for "using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or in another place." The evidence has shown that the Respondent provided false information on his insurance producer license application. This is sufficient to demonstrate untrustworthiness.

5. R.I. Gen. Laws § 27-2.4-14(a)(2) provides that the insurance commissioner may revoke an insurance producer's license for "violating any ... order of the insurance commissioner." The Respondent's failure to appear pursuant to the Notice sent to him qualifies as a violation of an order of the insurance commissioner.

VI. RECOMMENDATION

Based on the foregoing findings and conclusions of law, the undersigned Hearing Officer respectfully recommends that the Director issue an Order to permanently revoke Respondent's insurance producer license, effective immediately.

Dated: 11 August, 2011

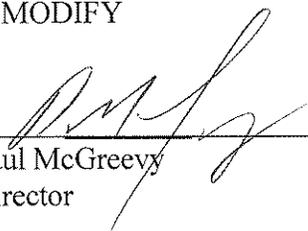

Ellen R. Balasco, Esq.
Hearing Officer

ORDER

I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

- ADOPT
- REJECT
- MODIFY

Dated: 11 Aug 2011



Paul McGreevy
Director

ENTERED as Administrative Order No. 11-065 on the 11th day of August, 2011.

THIS ORDER CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-1 *ET SEQ.* 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.

CERTIFICATION

I hereby certify that on the 11th day of August, 2011 a true copy of the within Decision was sent by first class mail, postage prepaid to: Jason Harkins, 32 Bellevue Avenue, Providence, Rhode Island 02907, and by electronic mail to: Elizabeth Kelleher Dwyer, Esq., at the Department of Business Regulation.