

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA




FILED
OSAH

JAN 16 2013

CEDRIC L THATCH,
Petitioner,

v.

GEORGIA DEPARTMENT OF
INSURANCE,
Respondent.


Kevin Westray, Legal Assistant

Docket No.:
OSAH-INS-DEN-1321117-60-Baxter

Agency Reference No.: 11010071

INITIAL DECISION

Petitioner Cedric Hatch ("Petitioner") appeals the denial of his application for a Resident Agent Insurance License by the Georgia Department of Insurance ("Department"). The hearing in this matter was held on January 10, 2013. For the reasons set forth below, this Tribunal finds that Petitioner's application for Resident Agent Insurance License was appropriately **DENIED**.

FINDINGS OF FACT

1.

The Department received Petitioner's resident insurance agent license application on or about August 16, 2012. (Ex. R-1.)

2.

On the license application, Petitioner answered "No" to the question: "Have you ever been convicted of or are you currently charged with a felony?" (Ex. R-1.)

3.

On the license application, Petitioner answered "No" to the question: "Have you been convicted of or are you currently charged with the commission of any crime or pled nolo contendere in a criminal proceeding or have you received first offender treatment or had adjudication of guilt withheld in a criminal proceeding, other than a minor traffic offense?" (Ex. R-1.)

4.

In February 2002, Petitioner was convicted of misdemeanor criminal charges of Harassment and Disorderly Conduct in the Municipal Court of Athens, Alabama. The court imposed a fine of \$100 and sentenced Petitioner to two (2) years of unsupervised probation. The court required the Applicant to perform 40 hours of community service. (Ex. R-4.)

5.

On November 25, 2008, Petitioner entered a plea of guilty to a felony criminal charge of Possession of Marijuana, More than 5 Kilograms, in the Circuit Court of Jones County,

Mississippi. The court sentenced Petitioner to serve a term of five (5) years on probation, ordered Petitioner to pay a fine of \$3,239.50, and required Petitioner to participate in a Community Service Program, under a sentence with non-adjudication. Petitioner's probation will be complete in 2013. (Ex. R-5.)

6.

On February 10, 2010, Petitioner was arrested and charged with Nonsupport of a Child in the Circuit Court of Morgan County, Alabama. Petitioner was released the following day, upon payment of the sum of \$2,000. (Ex. R-6.)

7.

On December 11, 2009, Petitioner filed an application for a Temporary Resident Agent License with the Department. In connection with that application, Petitioner disclosed that he was convicted of misdemeanor criminal charges of Harassment and Disorderly Conduct and was sentenced to probation for two (2) years in Athens, Alabama. Petitioner did not disclose the existence of the November 2008 plea and sentence on the felony criminal charge in the Circuit Court of Jones County, Mississippi. (Ex. R-7.)

8.

Currently, Petitioner is a used car sales manager. He wants a license because of his interest in the insurance field and his desire to spend more time with his family. (Testimony of Petitioner.)

9.

Petitioner did not include his felony plea on his application because he believed it was not on his record. The felony plea was the result of incident that occurred in 2002 when Petitioner was young and had a "bad year." He no longer is the same person and has had no trouble with the law since 2002. He did not consider his child support charge as an arrest, but rather a misunderstanding with the caseworker. (Testimony of Petitioner.)

CONCLUSIONS OF LAW

1.

As an applicant for an insurance license, Petitioner bears the burden of proof to show, by a preponderance of the evidence, that his application should be granted. Ga. Comp. R. & Regs. rr. 616-1-2-.07(1), 616-1-2-.21(4).

2.

The Department is authorized to refuse Petitioner's application because has been arrested, charged with and sentenced for the commission of a felony, or a crime involving moral turpitude, where an adjudication of guilt was withheld or not entered on the charge. O.C.G.A. § 33-23-21(16)(B).

3.

The Department is authorized to refuse Petitioner's application because Petitioner obtained or attempted to obtain a license by misrepresentation, concealment or other fraud. O.C.G.A. §33-23-21(3).

4.

The Department is also authorized to refuse Petitioner's application because he misrepresented or concealed a material fact in an application for a license. O.C.G.A. § 33-23-21(2).

5.

Finally, the Department is authorized to refuse Petitioner's application because Petitioner has shown lack of trustworthiness or lack of competence to act as a licensee. O.C.G.A. §33-23-21(11).

6.

Given the Petitioner's burden of proof in this action, the Petitioner failed to prove by a preponderance of the evidence that his application should be granted at this time. Part of the Department's responsibilities in licensing insurance agents is to safeguard the consumer's trust in Georgia insurance agents. Here, there is no dispute that Petitioner failed to disclose two separate criminal incidents on his application, one a felony plea with ongoing probation. The criminal charges alone indicate a potential for lack of trust. The concealment, however, of these incidents exacerbates the Department's concerns regarding a potential for dishonesty. Nothing that Petitioner presented at the hearing overcame these concerns. Accordingly,

DECISION

Based on the foregoing, Petitioner's application for a Resident Agent Insurance license is **DENIED**.

SO ORDERED this 16th day of January, 2013.



AMANDA C. BAXTER
Administrative Law Judge