

[REDACTED],  
 Petitioner,  
 v.  
 GEORGIA DEPARTMENT OF  
 INSURANCE,  
 Respondent.

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DOCKET NO. OSAH-INS-DEN-  
 [REDACTED]-OAKLEY

Agency Ref. No. [REDACTED]

A hearing was held in this matter on September 3, 2013, pursuant to the Petitioner's appeal of the Respondent's issuance of an Order of License Refusal. The Petitioner was present and proceeded *pro se*. The Respondent was represented by Molly Levinson, Enforcement Attorney.

1.

2.

- a) In July, 2010, the entry of a plea of guilty to the misdemeanor offense of Family Violence Battery and to the misdemeanor offense of Criminal Trespass – Unlawful Purpose (the “Gwinnett Matter”) Exhibit R-3;
- b) In July, 2010, the entry of a plea of guilty to the misdemeanor offense of Violation of Temporary Protective order. Exhibit R-4.

- c) In August, 2011, the issuance of an Amendment to Order in the Gwinnett Matter requiring the Petitioner to post a bond in the amount of \$8,650.00, and to have no contact with a named individual. Exhibit R-5.
- d) In June, 2011, the entry of a plea of guilty to the misdemeanor offense of Criminal Trespass and to the misdemeanor offense of Battery. Exhibit R-6.
- e) In October, 2010, the entry of a plea of guilty to the misdemeanor offense of Driving Under the Influence. Exhibit R-7.
- f) In September, 2011, the entry of a plea of guilty to the felony offense of Criminal Damage to Property in the Second Degree and to three (3) misdemeanor counts of Criminal Trespass. Exhibit R-8. The Petitioner continues to serve the sentence imposed in this matter on probation. Exhibit R-8; Testimony of Petitioner.

3.

The Petitioner answered "Yes" to a question on the Application asking whether the Petitioner had been the subject of a disciplinary action by the Respondent. Exhibit R-2. The Petitioner's answer was truthful. Exhibit R-1.

4.

In 2004, the Petitioner entered into a Consent Order with the Respondent for the purpose of obtaining a Georgia Resident License on a probationary basis. The Consent Order recited the Petitioner's commission of the following crimes:

- a) In November, 1997, the commission of felony aggravated stalking, of felony obstruction of officer and the commission of the offense of driving under the influence.
- b) In May, 1992, the commission of the misdemeanor offense of simple battery.
- c) In March, 1989, the commission of the misdemeanor offense of carrying a concealed weapon and the commission of the offense of driving under the influence.
- d) In July, 1988, the commission of the offense of driving under the influence.

Exhibit R-1.

5.

The record includes evidence proffered in support of the Petitioner's trustworthiness and competency as an insurance professional. Exhibits P-1 through P-3; Testimony of Mr. Bell and Mr. Tanner. The evidence of the Petitioner's trustworthiness and competency as an insurance professional is scant and is not persuasive.

6.

The Petitioner suffers from alcoholism and considers his criminal record to be the result of his alcoholism. Testimony of Petitioner. There is credible evidence in the record that the Petitioner behaves in a vastly different manner when he is under the influence of alcohol. Testimony of Mr. Bell and Mr. Tanner. Of significance, there is no evidence in the record to support a finding that the Petitioner is trustworthy and competent as an insurance professional during periods of sobriety.

7.

The Petitioner has participated in the program of Alcoholics Anonymous since January, 2013. Exhibit P-3. The Petitioner abstains from alcohol at the present time. Testimony of Petitioner; see Exhibit P-1. There is no credible evidence in the record to support a finding that the Petitioner's eight (8) month participation in the Alcoholics Anonymous program is an indication or an assurance of his continued participation and sobriety.

#### Conclusions of Law

1.

The Petitioner failed to carry the burden of proof in this challenge to the denial of an application for licensure. Ga. Comp. R. & Regs. 616-1-2-.07(c).

2.

The Respondent is authorized to refuse the issuance of a license to the Petitioner on the basis of his commission of felonies and of numerous misdemeanor crimes involving moral turpitude as each of these crimes involved a disregard for the safety of others. O.C.G.A. §§33-23-21(15) and 40-6-391; In re Jones, 293 Ga. 264, 744 S.E.2d 6 (2013).

3.

The Respondent is authorized to refuse the issuance of a license to the Petitioner on the basis of his demonstrated lack of trustworthiness as evidenced by his felony convictions and his numerous misdemeanor convictions of crimes of moral turpitude. O.C.G.A. § 33-23-21(11).

Decision

For all the above and foregoing reasons, the Respondent's Order of License Refusal is **AFFIRMED**.

This 3d day of September, 2013.

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**Lois F. Oakley**  
Administrative Law Judge