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OSAH

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**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

Kevin Westray, Legal Assistant

**KEVIN CARMOUCHE,** )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 **GEORGIA DEPARTMENT OF** )  
 **INSURANCE,** )  
 )  
 Respondent. )

**DOCKET NO. OSAH-INS-DEN-  
1415046-60-OAKLEY**

**Agency Ref. No. 11007950**

**INITIAL DECISION**

A hearing was held in this matter on November 20, 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 G. Stephen Parker, Esq.

**Findings of Fact**

1.

In May, 2013, the Petitioner submitted a Resident Insurance License Application to the Respondent on which he answered "Yes" to a question asking whether he had ever been convicted of a felony. Exhibit R-1. The Petitioner's response was truthful. Exhibit R-3.

2.

In July, 2013, the Petitioner entered a plea of guilty to two (2) counts of Insurance Fraud, to two (2) counts of Identity Fraud, and to one (1) count of False Statement in the Superior Court of Fulton County, Georgia. The Petitioner received a one (1) year sentence which was commuted to time served. Exhibit R-3. On August 5, 2013, the Petitioner was discharged pursuant to the terms of the First Offender Act. Exhibit R-4. The Petitioner's Fulton County criminal convictions resulted from a fraud investigation conducted by the Respondent upon receipt of a Consumer Complaint. Testimony of Mr. Kearney; Exhibit R-5.

3.

The Petitioner proffered some evidence to support his contention that the Fulton County criminal convictions were based upon untruthful allegations and that no insurance fraud was in fact committed. Testimony of Petitioner.

4.

The Petitioner answered "Yes" to the question on the Application asking whether his insurance license had ever been suspended or revoked. Exhibit R-1. The Petitioner's Georgia insurance agent license number 509385 became inactive on December 31, 2010 on the basis of his failure to renew in a timely manner. Exhibit R-2; Testimony of Petitioner.

5.

There is some evidence in the record to support a finding that the Petitioner's criminal record is not indicative of his character and is the result of "an honest mistake and miscommunication". See Testimony of Petitioner; Exhibit R-9.

#### 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 was authorized to refuse the issuance of a license to the Petitioner on the basis of his commission of felonies involving moral turpitude and his subsequent sentence pursuant to the terms of the First Offender Act. O.C.G.A. § 33-23-21(16)(A).

3.

The Respondent was authorized to refuse the issuance of a license to the Petitioner on the basis of his demonstrated lack of trustworthiness and competence to act as a licensee under the Georgia Insurance Code. O.C.G.A. § 33-23-21(11).

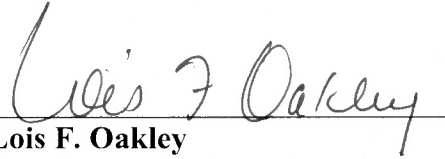
4.

The Respondent was authorized to refuse the issuance of a license to the Petitioner on the basis of his commission of fraudulent and dishonest practices. O.C.G.A. § 33-23-21(5).

Decision

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

This 25th day of November, 2013.

A handwritten signature in cursive script that reads "Lois F. Oakley". The signature is written in black ink and is positioned above a horizontal line.

**Lois F. Oakley**  
Administrative Law Judge