

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF THE ADMINISTRATIVE
HEARING TO APPEAL THE DEPARTMENT'S
DENIAL OF EXCEL WARREN, JR.'S APPLICATION
FOR RESIDENT INSURANCE PRODUCER LICENSE**

AID NO. 2007- 043

ORDER

A hearing was held on June 22, 2007 in the hearing room of the Arkansas Insurance Department ("Department") in accordance with the provisions of the Arkansas Administrative Procedures Act and pertinent provisions of the Arkansas Insurance Code. Jay Morgan, General Counsel and Deputy Insurance Commissioner, acted as the Hearing Officer pursuant to his designation as such by Julie Benafield Bowman, Insurance Commissioner, pursuant to Ark. Code Ann. § 23-61-103(e), § 23-61-104(a) and the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201, *et seq.* The Department was represented by Amanda Capps Rose, Associate Counsel. Excel Warren, Jr. ("Appellant") represented himself and voluntarily waived his right to legal counsel.

FINDINGS OF FACT

From the testimony of witnesses, evidence introduced at the hearing, exhibits filed in connection therewith, reports and statements on file with the Insurance Department, and representations of counsel, the Hearing Officer finds as follows:

1. Appellant obtained his resident producer license, No. 22354, on or about May 17, 1982. Appellant's resident producer license expired on February 4, 1999.
2. In 1996, the Appellant was convicted of his second Driving While Intoxicated ("DWI") charge. Appellant testified that he could not recall the specific time period during which he was convicted of his first DWI. In July 1996, the Appellant was

convicted by the State of Arkansas for Domestic Battery in the Third Degree, a Type D Felony. Appellant testified that he was sentenced to, and completed, community service as a result of the conviction.

3. On August 24, 1998, the Appellant was convicted of two felony charges by the United States District Court for the Eastern District of Arkansas. Appellant was found guilty of Conspiracy to Distribute Cocaine, a Class B Felony, and Attempt to Possess with Intent to Distribute Cocaine, a Class C Felony. Appellant was sentenced to eighty-seven (87) months in federal prison and was fined \$12,500.00.

4. In 1998, Equity Fire and Casualty Company filed a civil lawsuit against the Appellant in Tulsa County, Oklahoma and obtained a default judgment in the amount of \$14,287.64 against the Appellant. In 1999, the Appellant filed for Chapter 7 Bankruptcy during his incarceration due to an inability to meet his financial obligations. The judgment in favor of Equity Fire and Casualty Company was among the debts discharged in bankruptcy.

5. Appellant failed to report the above charges, convictions, and his bankruptcy to the Department at the time of their occurrence.

6. On or about September 13, 2006 the Appellant submitted the Uniform Application for an Arkansas Individual Resident Insurance Producer License.

7. By letter dated October 30, 2006 the Department declined the Appellant's application based upon felony convictions. Appellant requested an administrative hearing to appeal the denial of his producer application. The purpose of the hearing was to determine whether the Appellant was qualified at the time of the hearing to be granted a permit to sit for the Arkansas Resident Producer's Examination.

8. Appellant testified at the hearing and called five witnesses, Harvey J. Hall, Harry Beavers, Bishop D. L. Lindsey, Priscilla Robinson, and Bobbie Warren. Appellants' witnesses testified as to the rehabilitation and character of the Appellant. Exhibits 1 through 17 were admitted without objection during the hearing. The record was closed on July 9, 2007.

9. Appellant gave credible testimony concerning the circumstances surrounding his state and federal felony convictions, the civil lawsuit filed by Equity Fire and Casualty Company, his 1999 bankruptcy, and his reasons for pursuing his producer license.

10. Appellant and the witnesses called by him testified in a credible and effective way regarding the Appellant's competency, trustworthiness, financial responsibility, and personal and business reputation.

CONCLUSIONS OF LAW

Based upon the above and foregoing Findings of Fact and the evidence before him, the Hearing Officer concludes as follows:

11. The Hearing Officer has the authority to render a decision in this matter pursuant to the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201, *et seq.* and the delegation of authority from the Commissioner.

12. Appellant's failure to report his criminal convictions is a violation of Ark. Code Ann. § 23-64-201(h) (effective until July 1, 2002) and § 23-64-517(b). Appellant's failure to report his bankruptcy proceedings is a violation of Ark. Code Ann. § 23-64-201(h) (effective until July 1, 2002).

13. The crimes of which the Appellant was convicted were not crimes involving dishonesty or a breach of trust, and the crimes were not related to the business of insurance.

14. Appellant presented competent testimony and evidence sufficient for the Hearing Officer to determine that the Appellant is competent, trustworthy, financially responsible, and of good personal and business reputation as required by Ark. Code Ann. § 23-64-506(e). Appellant presented evidence showing that he has a great deal of experience and expertise in the insurance industry.

IT IS THEREFORE ORDERED, in consideration of the above and foregoing Findings of Fact and Conclusions of Law, that:

15. The Department's denial of the Appellant, Excel Warren, Jr.'s, Application for an Arkansas Individual Resident Insurance Producer License is hereby reversed.

16. Appellant will promptly be issued a permit to sit for the Arkansas Resident Producer's Examination.

17. Appellant will be immediately placed on Probationary Status if he passes the Arkansas Resident Producer's Examination and obtains his producer license. Pursuant to the Probationary Status, the Appellant shall take one additional hour of Ethics Continuing Education in his first year of licensure in addition to the hour of Ethics required by Ark. Code Ann. § 23-64-301, for a total of two Ethics Continuing Education hours during his first year. The additional hour of Ethics will not count toward the Continuing Education requirements set forth in Ark. Code Ann. § 23-64-301. Appellant shall provide evidence of completion of the additional hour of Ethics to both the Licensing Division and the Legal Division of the Department.

18. The term of the Appellant's Probationary Status will expire at the second renewal of his producer license provided that the Appellant has not breached any term or condition of his probation.

19. Appellant is advised that Probationary Status means the suspended imposition of insurance license sanctions that the Commissioner may impose, contingent upon the compliance and good conduct of the licensee during the probationary period. Ark. Code Ann. § 23-64-216(h).

20. If the Appellant violates any of the terms or conditions of his probation or any provision of the Arkansas Insurance Code during the probationary period, a license revocation hearing may immediately be scheduled and could result in the imposition of insurance license sanctions, including the revocation of the Appellant's license.

IT IS SO ORDERED THIS 25th DAY OF JULY, 2007.


JAY MORGAN
GENERAL COUNSEL
DEPUTY COMMISSIONER and
HEARING OFFICER