



3. Question 39.1 of the application required Appellant to state whether he had ever been convicted of a crime, including a misdemeanor, felony or military offense. Appellant placed a check mark in the blank for “yes,” but scratched out the answer and placed a check mark in the blank for “no.”

4. On September 2, 2011, Appellant submitted an explanation to Pearson VUE regarding his original answer to question 39.1. Appellant stated that he misunderstood question 39.1, and the answer is no.

5. Appellant submitted a second application to the Department on September 8, 2011, and he answered “no” to question 39.1.

6. During a search of Appellant’s criminal background, the Department discovered that Appellant was arrested by Greenwood Police Department for aggravated assault of a family or household member and disorderly conduct. The Arkansas State Police Criminal History Report listed the assault charge as a felony and the disorderly conduct charge as a misdemeanor and stated that both charges resulted in a conviction in or around 2007.

7. On September 8, 2011, the Department notified Appellant of the criminal background search results and requested an explanation of the charges and his failure to disclose the convictions.

8. On September 15, 2011, Appellant responded in writing to the Department’s request and stated that he misinterpreted question 39.1 and did not intend to deceive the Department by omitting the offense on the license application. Appellant provided a copy of the Sebastian County District Court Transcript of Judgment for each offense, showing that in July 2005, Appellant entered a plea of no contest to each charge.

9. On September 29, 2011, the Department notified Appellant that his application for a producer license and permit to sit for the Arkansas Producer's Examination was denied on the basis that he failed to disclose his two (2) convictions and the nature of the convictions. Appellant was also advised that he had a right to request an administrative hearing to appeal the denial.

10. Appellant requested a hearing to appeal the license denial, and the appeal hearing was scheduled for November 30, 2011.

11. At the hearing, Appellant presented the following evidence: (1) Appellant misinterpreted question 39.1 on the license application; (2) Appellant did not intend to deceive the Department by failing to disclosing the 2005 convictions on the license application; (3) in July 2005, Appellant entered a plea of no contest to assault on a family or household member and disorderly conduct and was sentenced to one year, suspended imposition, complete anger management and have no contact with the victim; and (4) the convictions were dismissed in 2010 after Appellant complied with all conditions of the sentence.

#### **CONCLUSIONS OF LAW**

12. Pursuant to Arkansas Code Annotated § 23-64-506, in order to obtain an insurance producer's license, an applicant must demonstrate that he is competent, trustworthy, financially responsible, and of good personal and business reputation.

13. In the application process, the applicant must provide correct, complete and true information to the Department, and an application may be denied when the applicant attempts to obtain a license through fraud or misrepresentation, demonstrates incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility, or

has been convicted of a felony or violated a law that calls into question the applicant's fitness to hold a license. *See* Ark. Code Ann. § 23-64-512(a).

14. Appellant testified that he did not intend to misrepresent his criminal history to the Department in the license application. Specifically, Appellant testified that he misunderstood question 39.1 because at the time he applied for a producer's license, the convictions had been dismissed, and he has not been arrested since 2005. Appellant further testified that he has established a good work history at his current position and is relied on by the company, which evidence his competence, trustworthiness, financial responsibility and good personal or business reputation.

15. Based upon the evidence before the Hearing Officer and the safeguards, terms and conditions set forth below, Appellant fulfilled his burden of showing that the Department should reverse its decision and grant his application.

#### **RECOMMENDATIONS OF THE HEARING OFFICER**

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and other matters before him, the Hearing Officer recommends:

16. That the Department's denial of the Appellant's Application for an Arkansas Resident Insurance Producer License be reversed, and Appellant be promptly issued a permit to sit for the Arkansas Producer's Examination.

17. That Appellant be placed on unsupervised probation for a period of two (2) years.

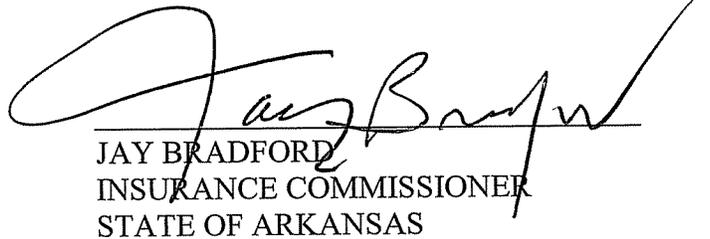
  
\_\_\_\_\_  
WILLIAM R. LACY  
DEPUTY COMMISSIONER  
and HEARING OFFICER

**CERTIFICATION**

I, Jay Bradford, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer were made by and under my authority and supervision by William R. Lacy, Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendations in full and enter this Order.

THEREFORE, it is hereby ORDERED that the Appellant's Application for an Individual Resident Insurance Producer License and permit to sit for the Arkansas Producer's Examination is granted. Appellant will be placed on unsupervised probation for two (2) full years of licensure.

IT IS SO ORDERED THIS 21<sup>st</sup> DAY OF December, 2011.

  
\_\_\_\_\_  
JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS