



3. Appellant stated in question 39.1 of the application that he had never been convicted of a crime.

4. During a search of Appellant's criminal background, the Department discovered that Appellant was arrested in or about June 2008 for possession of a controlled substance. The Arkansas State Police Criminal History Report listed the offense as a felony.

5. On December 22, 2010, the Department notified Appellant of the criminal background search results and requested an explanation of the 2008 drug charge.

6. Appellant testified that he had several telephone conversations with Fred Stiffler, Director of the Licensing Division, but it was not until October 25, 2011, that Appellant responded in writing to the Department's request and stated that he was unaware of a felony charge or conviction on his record. Appellant provided a copy of the Arkansas Crime Information System report of his criminal background, which indicated that the 2008 drug charge was reduced to a misdemeanor and all other charges on his record were dismissed.

7. On October 28, 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 criminal background. Appellant was also advised that he had a right to request an administrative hearing to appeal the denial.

8. Appellant requested a hearing to appeal the license denial, and the appeal hearing was scheduled for December 1, 2011.

9. At the hearing, Appellant presented the following evidence: (1) his 2008 conviction was a misdemeanor; (2) believing that since the conviction was a misdemeanor, his failure to disclose was not an effort to misrepresent his criminal history to the Department in the license application; (3) he received a resident producer's license in 2005, and his license was in

good standing until 2009 when he let it lapse in order to finish college; (4) in 2010, he earned a Bachelor's degree in finance and accounting; (5) he has owned a tax preparation company for three (3) years; and (6) his record has been clean since the 2008 conviction.

10. The evidence at the hearing further revealed that the Arkansas Criminal History Report of Appellant contained several errors, including an incorrect middle name, an incorrect social security number and no disposition of the 2008 charge indicating that the charge was reduced to a misdemeanor.

### **CONCLUSIONS OF LAW**

11. 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.

12. 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).

13. Appellant testified that he did not intend to misrepresent his criminal history to the Department in the license application, he attempted for several months to correct the errors on the criminal background report, and he has not been arrested since 2008. Appellant also testified that he previously held a producer license, he earned a Bachelor's degree in 2010, and he has owned a tax preparation service for three (3) years, which, according to Appellant,

evidence his competence, trustworthiness, financial responsibility and good personal or business reputation.

14. 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 her, the Hearing Officer recommends:

15. 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.

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

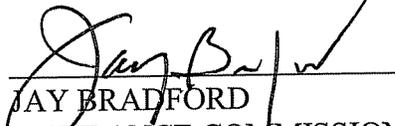
  
LENITA BLASINGAME  
CHIEF DEPUTY COMMISSIONER  
and HEARING OFFICER

**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 Lenita Blasingame, Chief 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 probation for two (2) full years of licensure.

IT IS SO ORDERED THIS 6<sup>th</sup> DAY OF January, 2012.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS