



**STATE OF CONNECTICUT**  
*INSURANCE DEPARTMENT*

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In the Matter of: )  
Donald J. Cummings )  
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Docket No. LI 14-54

**ORDER**

I, Thomas B. Leonardi, Insurance Commissioner of the State of Connecticut, having read the record in the above-captioned matter, do hereby adopt the findings and recommendation of Michael S. Malesta, Hearing Officer, which are contained in the attached Proposed Final Decision dated August 4, 2014 and issue the following order, **TO WIT:**

The decision of the Insurance Department denying Donald J. Cummings' application for licensure as an insurance producer is found to be lawful and reasonable, and is hereby affirmed.

Dated this 5<sup>th</sup> day of August, 2014.

  
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Thomas B. Leonardi  
Insurance Commissioner



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**Docket No. LI 14-54**

**MEMORANDUM OF FINDINGS AND PROPOSED FINAL DECISION**

**I. Statement of the Case**

The captioned proceeding commenced when Donald J. Cummings (the “Applicant” or “Cummings” herein) filed a request dated May 12, 2014 and received by the Connecticut Insurance Department (the “Department” herein) on May 15, 2014 (Hearing Off. Ex. A) appealing a decision of the Department dated May 5, 2014 that denied his application for a Connecticut insurance producer license (Stip. Ex. 4).

On June 2, 2014 a Notice of Hearing was issued for June 25, 2014 (Hearing Off. Ex. B). On June 17, 2014, the Applicant informed the undersigned that he would be represented by counsel at the hearing. Applicant’s counsel requested a postponement of the hearing and the undersigned granted the same until July 15, 2014 (Hearing Off. Ex. B email attachment). Applicant’s counsel filed an appearance on June 19, 2014 (Hearing Off. Ex. D). On July 14, 2014, the undersigned was informed by Applicant’s counsel that the Applicant decided to represent himself *pro se* at the hearing and counsel, thereafter, withdrew his appearance. The Department was represented by Attorney Antonio Caporale. On June 13, 2014, the undersigned was appointed hearing officer by Commissioner Thomas B. Leonardi (Hearing Off. Ex. C). The hearing was conducted on July 15, 2014 at the offices of the Connecticut Insurance Department.

## **II. Factual Findings**

1. Applicant applied for a Connecticut resident producer insurance license on-line by an application dated March 19, 2014 (Stip. Ex. 1) together with a letter dated March 19, 2014 (Stip. Ex. 2) explaining certain responses on the application.
2. By email dated March 31, 2014, Applicant provided supplemental information to the Department further explaining certain responses on the application. (Stip. Ex. 3)
3. Pursuant to a Final Determination and Order issued by the State of New York Insurance Department dated September 21, 2006 (Department Ex. 1), based on the Hearing Officer's Report and Recommendation (Department Ex. 2), all licenses issued by the New York Insurance Department to the Applicant were revoked and all pending applications for licenses were denied. The Department obtained said Order and Hearing Officer Report directly from the New York Insurance Department (TR. 15)
4. The New York Hearing Officer's report states, "[t]he credible evidence establishes that the Respondent [Cummings] engaged in very serious insurance fraud and misconduct, particularly creating concocted information on insurance applications in order to sell unauthorized annuity contracts in New York." (Department Ex. 2)
5. Applicant did not disclose specifically in his application and supplemental documentation (i.e. Stip. Exhibits 2 and 3) that he created false addresses for customers in order to sell unauthorized annuity contracts in New York. (TR. 15-17).
6. The Department denied the Applicant's application for a resident producer license as set forth in a letter from the Department's Fraud & Investigations Unit to the Applicant (Stip. Ex. 4 referred to above). The letter concluded that the Department is denying Applicant's application for a producer license under section 38a-702k of the Connecticut General Statutes ("CGS").

## **III. Discussion**

This hearing is brought pursuant to CGS section 38a-702k(b) which gives any person denied an application for a license, the right to request a hearing to determine the reasonableness of the Department's actions concerning such denial. CGS section 38a-702k provides a number of reasons for which the Department may deny an applicant's producer license application. Among the reasons set forth in CGS section 38a-702k(a) are: (i) having admitted or been found to have committed any insurance unfair trade practice or fraud; (ii) using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or

financial irresponsibility in the conduct of business in this state *or elsewhere*; or (iii) having an insurance producer license, or its equivalent, denied, suspended or revoked in *any other state*, province, district or territory. *See* CGS sections 38a-702k(a)(7), 38a-702k(a)(8) and 38a-702k(a)(9) (emphasis added).

Applicant applied for a Connecticut resident insurance producer license by uniform license application dated March 10, 2014 and supplemented the application with documentation explaining certain answers on his application. The Department obtained information from the New York Insurance Department evidencing the revocation of all of his New York insurance licenses in 2006 following a hearing. The grounds for that revocation were that the “[r]espondent engaged in very serious insurance fraud and misconduct, particularly creating concocted information on insurance applications in order to sell unauthorized annuity contracts in New York.” The undersigned concludes that such dishonest practices as found by the New York Insurance Department provide grounds for denying his resident license application in Connecticut under CGS sections 38a-702k(a)(7) and 38a-702k(8).

Applicant’s testimony appeared credible at the hearing. However, he did not provide evidence concerning why the Department’s determination in denying his Connecticut license application was unreasonable as a result of the hearing undertaken in New York and subsequent revocation of all New York licenses and the denial of all pending New York applications (*See* Dept. Ex. 1). The undersigned concludes that in addition to the grounds set forth above under CGS sections 38a-702k(a)(7) and 38a-702k(a)(8), the revocation of Applicant’s New York producer license provides a further basis for denying him an insurance producer license in Connecticut pursuant to CGS section 38a-702k(a)(9). Applicant stated in his March 19, 2014 letter to the Department (Stip. Ex. 2) that, “I submit my request for a Life producer license as I have completely learned from my mistakes, 8 years have passed, and my family and I have suffered *tremendously* for my stupidity. I will gladly supply any additional information that is requested and I can provide letters of reference attesting to my character.” Applicant’s testimony at the hearing concerned restrictions he would agree to if the Department issued a license to him such as operating his business subject to periodic audits by the Department. (TR. 9). However, this information does not provide a sufficient basis to support a finding that the Department’s action in denying his license application was unreasonable under applicable insurance statutes.

Further, Applicant argued by analogy that if an attorney has an opportunity to reapply for reinstatement after six years than he should likewise be given the opportunity to apply for reinstatement after some eight years since his New York insurance license was revoked. (TR 10). The undersigned does not believe that such an analogy provides a basis for reaching a determination that the Department was unreasonable in denying Applicant's application for a producer license. Applicant did not offer any specific evidence of rehabilitation in relation to his prior conduct such as having taken insurance producer continuing education or ethics courses or 'shadowing' another producer or assisting another producer to facilitate learning in order to help evidence that the individual is aware of applicable insurance laws and that he understands the ramifications of his past acts. (TR 20).

On the basis of the foregoing, the undersigned concludes that the evidence on the record provides reasonable support for the Department's decision in denying Applicant's application for a Connecticut resident producer license. In the event the Applicant seeks and is granted reinstatement in New York of his producer license, such reinstatement would provide support for the Department to reconsider Applicant's request for a producer license in Connecticut.

**IV. Recommendation**

The undersigned recommends that the following Order be issued:

The decision of the Insurance Department denying Donald J. Cummings' application for licensure as an insurance producer is found to be lawful and reasonable, and is hereby affirmed.



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Michael S. Malesta, Hearing Officer

Date: August 4, 2014