

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE
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STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

In the Matter of:)
)
TOBY LYNN SMITH)
)
Applicant)
)
)
_____)

Case No. D 14-28

STIPULATED AGREEMENT AND ORDER

The Division of Insurance (division) and Toby Lynn Smith (Smith), the applicant in this case, stipulate and agree to the following:

I. BACKGROUND

A. On or about October 2, 2014, the division received Smith's electronic application for an individual adjuster property and casualty authority license.

B. The division, after reviewing the National Association of Insurance Commissioners' State Producer Licensing Database, determined Smith's application was incomplete for failure to disclose that an administrative action had been taken against his independent adjuster's license by the State of Alabama.

C. On or about October 29, 2014, Smith amended his application and provided copies of the Alabama action. Smith further provided information relating to his affirmative response on his Alaska application that he had been convicted of a misdemeanor or felony.

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D. The additional information revealed that Smith in November, 2008, pled guilty in Alabama to criminally negligent homicide -DUI, a class C felony under the circumstances of Smith's case in that state. Under Alabama statute, an independent adjuster license may be denied to an applicant who has been convicted of a felony.

E. Rather than deny Smith a license, the Commissioner of Insurance for Alabama entered into a Consent Order not objecting to the issuance of a probationary Alabama independent adjuster license to Smith for one year subject to conditions. Smith's Alabama license was issued to him on or about September 29, 2014 and will expire on or about October 31, 2015.

F. AS 21.27.020 sets forth the general qualifications for licensure in this state. AS 21.27.020(a) provides: "For the protection of the people of this state, the director may not issue or renew a license except in compliance with this chapter and may not issue a license to a person, or to be exercised by a person, found by the director to be untrustworthy, incompetent, or who has not established to the satisfaction of the director that the person is qualified under this chapter."

G. To qualify for issuance or renewal of an individual license, AS 21.27.020(b)(4) requires the applicant or licensee to be a trustworthy person and AS 21.27.020(b)(6) requires the applicant or licensee not to have committed an act that is the cause for denial, nonrenewal, suspension, or revocation of a license in this state or another jurisdiction.

H. Under AS 21.27.410(a)(7), the director may deny issuance of or not renew a license or may suspend or revoke a license issued under this chapter for conviction of a felony.

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II. TERMS OF AGREEMENT

1. Smith agrees the conduct for which he was convicted in Alabama constitutes a violation of AS 21.27.410(a)(7).

2. Smith agrees to the issuance of a conditional license in this state under the following conditions:

i. All terms of Smith's current Alabama probation are to be completed successfully. After the successful completion of Smith's Alabama probation, an unrestricted Alaska license may be issued.

ii. The conditional license is predicated on Smith not violating any laws. If Smith violates any laws or regulations, Smith shall notify the division within 10 days of being charged with or receiving notification of the violation.

iii. If Smith violates the insurance laws and regulations while issued a conditional license, the division will take administrative action to suspend or revoke the license issued to him and Smith shall be subject to any and all sanctions authorized by law, including the imposition of additional penalties regarding such violation.

3. Smith waives his right to a hearing and enters into this agreement voluntarily with full knowledge of all rights he may have in this matter.

4. Smith understands that this agreement is not binding on the parties unless and until the director signs the order adopting this agreement.

Toby Lynn Smith
Stipulated Agreement and Order
D 14-28

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DATED: 12-18-14

DIVISION OF INSURANCE

By: Linda Brunette
Linda Brunette
Program Coordinator

DATED: _____

TOBY LYNN SMITH

By: Toby Lynn Smith
Toby Lynn Smith

Approved as to form and content:

DATED: 12/23/14

CRAIG W. RICHARDS
ATTORNEY GENERAL

By: Erin K. Egan
Erin K. Egan
Assistant Attorney General

ORDER

IT IS ORDERED that this Stipulated Agreement and Order is adopted in full resolution of the issues in this case, and shall constitute the final order in this matter.

DATED this 5th day of January, 2015.

Lori Wing-Heier
Lori Wing-Heier
Director

Toby Lynn Smith
Stipulated Agreement and Order
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