

**IN RE:
AMY L. COPPOLA
Docket No. INS 08-607**

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) **DECISION AND**
) **ORDER**
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This proceeding requires consideration of the application of Amy L. Coppola, a resident of Limestone, Maine, for a waiver to participate in the business of insurance pursuant to 18 United States Code §1033. Title 18 U.S. Code §1033, in relevant part, prohibits a person from being authorized to participate in the business of insurance if he or she has been convicted of a felony that involves dishonesty or breach of trust. That statute further allows a person who has been convicted of a criminal felony involving dishonesty or a breach of trust to participate in the business of insurance if that person has the written consent of an insurance regulatory official. Information provided by Ms. Coppola to the Bureau of Insurance indicates that on September 13, 1995, she pled guilty in Aroostook Superior Court to a charge of Class C Negotiating a Worthless Instrument in violation of 17-A M.R.S.A. § 708.

The circumstances surrounding this case are somewhat unusual. Ms. Coppola applied to the Bureau of Insurance for a Producer License in June of 2008. On her application, Ms. Coppola disclosed the existence of her criminal conviction but the relevance of her conviction for section 1033 purposes was not brought to light until after the license was issued. Ms. Coppola filed a section 1033 application with the Bureau shortly thereafter.

A hearing in this matter was held on October 20, 2008. Ms. Coppola attended, but was not represented by Counsel. Bureau of Insurance Attorney Arthur G. Hosford, Jr. and Licensing Claims Examiner Pamela Roybal also participated in the hearing. Notice of hearing in this matter was issued on October 7, 2008. Ms. Coppola waived her right to fourteen days notice of hearing, and the hearing was scheduled at a time mutually fixed by this office and Ms. Coppola as permitted by 24-A M.R.S.A. §230(2).

Title 18 U.S.C. §1033 was enacted as part of the omnibus anti-crime bill titled the “Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322, H.R. 3355). Section 1033 contains no provision that expressly establishes a standard of review for insurance regulatory officials to apply in considering applications for waiver of the prohibition. Congress appears to have left that subject to the discretion of the state officials.

Section 1033 waivers of prohibition on employment issued by any state insurance regulatory official allow individuals to be employed in any United States jurisdiction. Accordingly, state insurance commissioners acting through the National Association of Insurance Commissioners (“NAIC”) in March 1998 adopted Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994. These guidelines, which were adopted after extensive deliberations and opportunity for public input, recommend the states utilize uniform

§1033 application procedures and suggest many practical guidelines for investigation and consideration of any waiver applications received. Not surprisingly, these guidelines are rooted in notions of public protection. The NAIC guidelines state that the following should be considered on a review of the merits¹ (parentheticals added):

(a) (whether or not) the applicant has been fully rehabilitated and no longer poses a risk or threat to insurance consumers or the insurer; and

(b) (whether or not) the issuance of written consent to the applicant is consistent with the public interest, Federal and State law and any applicable court orders.

The NAIC guidelines appear to be an appropriate standard to be utilized in this instance. The burden of proof that the standard has been met is on Ms. Coppola.

Information contained in Ms. Coppola's application for a waiver leaves no question that her conviction was for a felony that involves dishonesty or breach of trust. Ms. Coppola has submitted a copy of the indictment pursuant to which she was charged on May 5, 1995, with one count of Class C Negotiating a Worthless Instrument. Ms. Coppola pled guilty to the charge. Ms. Coppola explained that the charge stemmed from a series of insufficient funds checks that she wrote on her own account to support her alcohol and drug habits at the time. According to the indictment, the charge relates to activity occurring between March 8 and April 16, 1995.

Ms. Coppola was sentenced to 30 days imprisonment, with all but 48 hours suspended, and one year of probation. She also was ordered to pay restitution of \$4,554.46 and a \$25.00 fine. Although Ms. Coppola was, as a condition of her one year probation, required to pay off the restitution in full, she experienced difficulty in making the requisite payment. However, she eventually fulfilled that requirement of her sentence in 1999. Ms. Coppola testified that she has not been in trouble with the law since her 1995 conviction.

There is substantial evidence in the record regarding Ms. Coppola's efforts to rehabilitate herself. Following her convictions, she discontinued using alcohol and drugs and paid the restitution as timely as she could. She returned to school and obtained an Associates Degree from Northern Maine Community College in 2007. She presented two personal letters of reference attesting to her character as part of her application. Ms. Coppola also presented evidence of stable employment over the past several years.

Ms. Coppola testified that she has been neither arrested nor convicted of any crime since her conviction in 1995. In connection with this proceeding, Bureau of Insurance staff contacted other state insurance departments. No negative information regarding Ms. Coppola was received in response.

Ms. Coppola's activities that led to her felony conviction certainly present cause for vigilance regarding her suitability for employment in the insurance industry. There are, however, a number of mitigating factors in her favor. Thirteen years have passed since her conviction and no evidence has been produced to suggest any further problems of a criminal nature or other wrongdoing since that time. Her application and the record of this proceeding demonstrate a

solid employment record in recent years. The material submitted in connection with her application indicate church involvement and a stable home life. There is no indication that Ms. Coppola would present a threat to insurance consumers or companies.

In light of these circumstances, this office finds that Ms. Coppola has satisfactorily demonstrated that she is entitled to a waiver of the prohibition of employment in the insurance industry provided for in 18 U.S.C. §1033 to allow her to engage in the business of insurance.

Order

Amy L. Coppola of Limestone, Maine, is hereby granted consent by this Office to engage in the business of insurance within the meaning of 18 U.S.C. § 1033 as of October 30, 2008.

Notice of Appeal Rights

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It may be appealed to the Superior Court in the manner provided in 24-A M.R.S.A. §236 and M.R. Civ. P. 80C. Any party to the hearing may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal on or before 40 days after the date appearing below.

¹ Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994, National Association of Insurance Commissioner, March, 1998, pp. 12-13.

October 30, 2008

Pamela Stutch
Attorney
Maine Bureau of Insurance
Designated Hearing Officer