

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE:)	
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JAMIE LYN BROWN)	
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Docket No. INS-18-600)	DECISION AND ORDER
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I. PROCEDURAL HISTORY

In December, 2017, Jamie Lyn Brown, a resident of Maine, submitted an Application for Written Consent to Engage in the Business of Insurance to the Maine Bureau of Insurance. This application was submitted pursuant to Title 18 U.S.C. § 1033. On January 17, 2018, Superintendent Eric A. Cioppa issued a Delegation Order delegating to me the authority to hear and decide this matter. On January 25, 2018, a Notice of Pending Proceeding and Hearing was issued, setting out the legal standards, procedures and issues to be decided at this hearing. On February 2, 2018, Bureau staff submitted a notice of staff’s intent to call Thomas Record, Senior Staff Attorney at the Bureau, as a witness at the hearing. A hearing was held on February 12, 2018. Ms. Brown was present at the hearing, and also participating in the hearing were Lindsay Laxon, Bureau Licensing Attorney, and Pamela Roybal, Licensing Division Supervisor.

II. STANDARD OF REVIEW

Title 18 U.S.C. § 1033 prohibits a person from participating in the business of insurance if she has been convicted of a felony that involves dishonesty or a breach of trust. The statute also allows a person who has been convicted of such a felony to participate in the business of insurance if that person has the consent of an insurance regulatory official.

Title 18 U.S.C. § 1033 contains no express standard of review for insurance regulatory officials to apply in considering a request for a waiver of the prohibition against participating in

the insurance industry. A waiver, if granted, allows individuals to be employed in any United States jurisdiction. To address this issue, the National Association of Insurance Commissioners (NAIC) published “Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994.” These guidelines include the following factors for consideration of whether to grant a 1033 application:

(1) Whether the applicant has been fully rehabilitated and no longer poses a risk or threat to insurance consumers or the insurer; and

(2) Whether 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 standards are appropriate to use in this case. The burden of proof that the waiver should be granted is on the applicant.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Ms. Brown’s application shows that on January 9, 2012 she was convicted of a Class B felony offense of Burglary and a C felony offense of Theft by Unauthorized Taking or Transfer in Cumberland County, Maine. She was also convicted of a Class D offense of Criminal Mischief. In addition to the 2012 convictions, Ms. Brown had previously been convicted of a Class C felony theft offense in Cumberland County, Maine in 2003 and a Class E theft offense in Androscoggin County, Maine in 2001.

Ms. Brown’s 2012 Class B and C felony convictions and her 2003 Class C felony conviction were all felony convictions involving dishonesty or breach of trust. The 2012 convictions involved an incident in 2009 in which Ms. Brown illegally entered her landlord’s office, which was located in the same building as Ms. Brown’s apartment. Ms. Brown stole money from her landlord and damaged the landlord’s property during this burglary. Ms. Brown was sentenced to two years in prison with all but 30 days in jail suspended. She was ordered to pay restitution and was placed on probation for two years. She successfully completed the terms of her probation.

At the hearing, Ms. Brown was asked to explain what happened that led to the 2012 convictions. However, she was unable to provide many details of the 2012 convictions, because

she stated her life was a blur during the time those crimes were committed. This was for several reasons, including the results of trauma she has previously sustained and the fact that she had been prescribed several “heavy-duty” medications for her health issues. She testified that she does not remember entering the office where the burglary occurred, committing the theft or the damaging of property which resulted in the criminal mischief conviction, although she believes the damage was to a file cabinet.

Ms. Brown was also asked to explain the details of the 2003 conviction, but she indicated, “I couldn’t even tell you the surrounding circumstances of the case. It’s numerous years ago. It’s 15 years ago.” Likewise, she was unable to say what the 2001 conviction involved.

Ms. Brown’s application and her testimony at the hearing includes evidence of efforts to turn her life around since her 2012 felony convictions. She successfully completed probation and was released from supervision on January 8, 2014. She has had no violations of law since being discharged from probation. Her application lists three jobs held during and following her probation, working at Amatos, in Portland, Maine, Fieldworks in Portland, Maine, and at Gateway Retirement Solutions (Gateway) in Scarborough, Maine. She stated that she has begun the process of trying to expunge her criminal record. She indicated that “I rebuilt myself” following her 2012 convictions, and stated that she poses no risk to the insurance industry.

She had worked for Gateway since 2016. She testified that she worked as an employee at an hourly rate until the end of November, 2017 and is currently not employed there. She said that if she is successful in obtaining her insurance license, she has been offered work with Gateway as an independent contractor.

Ms. Brown submitted a letter from Derrick Von Jones, who has known her for over 15 years, professionally and personally. Mr. Jones worked with Ms. Brown at Fieldworks, working on political campaigns. He described Ms. Brown as “reliable” and “trustworthy” and stated that she is not someone who would be dishonest or deceitful.

Michael Brown, Ms. Brown’s brother, submitted a letter in which he praised her for raising two very responsible children, and stated that he has observed her “drastically change for the positive” over the past several years.

Ahura Diliiza of the Unicorn Cover School of Metaphysics in Casco, Maine, submitted a letter in support, stating “You would be hard pressed to find a person more diligent, and flat out honest...” than Ms. Brown.

Scott Greanleaf, who has known Ms. Brown for approximately ten years, submitted a letter praising Ms. Brown’s efforts to overcome personal issues and her “fierce dedication to bettering her life.”

Matthew Herman, Managing Partner at Gateway, submitted a letter stating that he has known Ms. Brown for more than a year, and that over that time he has found her to be “honest, reliable and a hard worker.”

Mr. Herman also submitted an affidavit in support of Ms. Brown’s application and her intention to work as an independent contractor for American Senior Benefits (ASB), described as Gateway’s field marketing organization. His affidavit states, “While Gateway and ASB’s ability to control the activities of an independent contractor is limited...Gateway and ASB will use best efforts to monitor Ms. Brown’s activities to ensure they remain consistent with the limits described in the Application...” The affidavit goes on to state: “Assuming that Ms. Brown appropriately limits her activities to those reflected in the Application, I do not believe Ms. Brown’s activities would constitute a risk or threat to insurance consumers.” Although supportive of Ms. Brown, the affidavit also anticipates that if Ms. Brown begins working as an independent contractor there would be a limited ability for Gateway and ASB to supervise her activities.

Thomas Record, Senior Staff Attorney at the Bureau of Insurance, testified that on November 29, 2017, he received a call from his wife indicating that she had received a call from Ms. Brown about retiree health insurance. Mr. Record’s wife had taken Ms. Brown’s telephone number and passed it on to Mr. Record. When Mr. Record returned the call, he testified, “She (Ms. Brown) identified herself as an insurance agent who was calling to discuss senior citizen health insurance and products that might supplement Medicare.”

Mr. Record asked Ms. Brown if they had had any type of previous business relationship, and she responded that he was a client. Mr. Record explained that his retiree health insurance needs would be met through the State of Maine, and that he wasn’t interested in the products she was selling.

At the hearing, Ms. Brown denied that she would have said she was an agent, and said she had a script that she went by. On February 13, 2018, Bureau staff submitted two telephone scripts from Gateway and a telephone script training document signed by Ms. Brown. Both scripts appear to be for use in setting up appointments with licensed insurance agents, and they do not include language in which the reader of the script would claim to be an insurance agent.

Although Ms. Brown may have used these or similar scripts in making lead calls, Mr. Record's testimony was convincing that Ms. Brown represented herself to be an insurance agent during the call. This misrepresentation is likely a violation of 24-A M.R.S. § 1411(1), and it certainly raises additional concerns as to Ms. Brown's veracity and her ability to follow insurance law requirements should she become licensed.

Although Ms. Brown appears to have made genuine efforts to turn her life around, these positive efforts are outweighed by the need to protect the public. Her criminal record is serious and extensive, and she has been convicted of felony offenses involving dishonesty and breach of trust. Her discharge from the criminal justice system for her most recent convictions is still relatively recent. Her limited ability to explain her actions during the events leading to the 2012 convictions and her complete inability to offer any information regarding the 2003 and 2001 convictions provides no reassurance of her ability to deal with the public in important financial matters. Her November 2017 misrepresentations to Mr. Record are also very concerning.

Ms. Brown has not shown that she is fully rehabilitated and no longer poses a risk to insurance consumers. She also has not shown that the issuance of an insurance license to her is consistent with the public interest.

Her Application for a 1033 waiver is therefore DENIED.

IV. 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 by 24-A M.R.S. § 236, 5 M.R.S. § 11001, *et seq.* and M.R. Civ. P. 80C. Any party to the proceeding 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 within forty days of the issuance of

this decision. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S. § 11004.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

March 1, 2018


TIMOTHY N. SCHOTT
Deputy Superintendent of Insurance