

**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER OF
INSURANCE**

**IN THE MATTER OF THE
LICENSURE OF
CRAIG RONALE SUTTON**

**ORDER AND FINAL AGENCY
DECISION
Docket Number: 1772**

THIS matter was heard on Tuesday, August 4, 2015, by the undersigned Hearing Officer, designated by the Commissioner of Insurance (hereinafter "Commissioner") under N.C. Gen. Stat. § 58-2-55, pursuant to a Notice of Administrative Hearing that was duly issued and served.

The North Carolina Department of Insurance Agent Services Division (hereinafter, "Agent Services") was represented by Assistant Attorney General M. Denise Stanford. Agent Services Licensing Supervisor Robert V. Cunningham testified on behalf of Agent Services.

Petitioner, Craig Ronale Sutton (hereinafter "Petitioner"), was present and testified on his own behalf at the hearing. Petitioner was not represented by counsel.

Agent Services offered into evidence Exhibits 1 through 12, and said documents were admitted into evidence.

After careful consideration of the evidence and arguments presented, and based on the record as a whole, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The Notice of Administrative Hearing was properly served on Petitioner on June 24, 2015. The Notice of Administrative Hearing and Affidavit of Service were admitted into evidence as Exhibits 1, 2, and 2A.
2. Petitioner applied for licensing as a Resident Public Adjuster on or about September 26, 2014. A copy of Petitioner's Application was admitted into evidence as Exhibit 3.
3. On Petitioner's Application, Petitioner answered "No" to the background question, "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?"

4. On Petitioner's Application, Petitioner answered "Yes" to the background question, "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?"

5. On Petitioner's Application, Petitioner answered "N/A" to the background question, "If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?"

6. As part of the Application, Petitioner submitted a North Carolina Department of Insurance Fingerprint/Criminal Background Packet Public Adjuster, an Electronic Fingerprint Submission Release of Information, a copy of his criminal record in Wake County, a National Insurance Producer Registry Electronic Application for Individual Insurance Producer License, a copy of an Income Withholding Order, and a handwritten letter from Petitioner, which were admitted into evidence as Exhibits 4 and 4A.

7. A certified copy of Petitioner's criminal record in Wake County was admitted into evidence as Exhibit 5.

8. A certified copy of Petitioner's criminal record in Durham County was admitted into evidence as Exhibit 6.

9. On or about March 25, 1993, Petitioner was convicted in Wake County of felony robbery with a dangerous weapon, 92 CR 067663.

10. On or about May 1, 2001, Petitioner was convicted in Wake County of misdemeanor possession of drug paraphernalia, 01 CR 016187.

11. On or about April 19, 2004, Petitioner was convicted in Wake County of felony possession with intent to sell and deliver marijuana, 03 CR 114302.

12. On or about July 17, 2006, Petitioner was convicted in Durham County of misdemeanor simple possession of a Schedule VI controlled substance and misdemeanor possession of drug paraphernalia, 06 CR 044159.

13. On or about August 14, 2008, Petitioner was convicted in Wake County of misdemeanor injury to personal property, 08 CR 023191.

14. Due to his former felony convictions, on or about March 26, 2015, Petitioner submitted a waiver application and requested the written consent from the Commissioner to engage in the business of insurance pursuant to 18 U.S.C. § 1033(e) (hereinafter "1033 waiver application").

15. A copy of the 1033 waiver application with attachments was admitted into evidence as Exhibits 9, 9A, and 9B.

Conclusions of Law

1. This matter is properly before the Commissioner. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Petitioner was properly served with the Notice of Administrative Hearing.

3. N.C. Gen. Stat. § 58-33A-20(a)(2) requires that prior to issuing a public adjuster license, the Commissioner shall find that the applicant has not committed any act that is grounds for denial, suspension, or revocation of a license as set forth in N.C. Gen. Stat. § 58-33A-45.

4. N.C. Gen. Stat. § 58-33A-20(a)(3) requires that prior to issuing a public adjuster license, the Commissioner shall find that the applicant is trustworthy, reliable, and of good reputation.

5. N.C. Gen. Stat. § 58-33A-45(a)(1) authorizes the Commissioner to take disciplinary action against a license holder if the licensee has provided incorrect, misleading, incomplete, or materially untrue information in the license application.

6. Petitioner's failure to disclose his misdemeanor convictions on his Application constitutes providing incorrect, misleading, incomplete, and materially untrue information in the license application, in violation of N.C. Gen. Stat. § 58-33A-45(a)(1).

7. N.C. Gen. Stat. § 58-33A-45(a)(6) authorizes the Commissioner to take disciplinary action against a license holder if the licensee has been convicted of a felony or a misdemeanor involving dishonesty or breach of trust.

8. Petitioner's felony convictions for felony robbery with a dangerous weapon and felony possession with intent to sell and deliver marijuana are felony convictions, in violation of N.C. Gen. Stat. § 58-33A-45(a)(6).

9. 18 U.S.C.S. § 1033(e) of the Federal Violent Crime Control and Law Enforcement Act of 1994 prohibits persons who have been convicted of certain felonies from engaging in the business of insurance unless such a person receives a written consent from the appropriate chief state insurance regulatory officer, which in North Carolina, is the North Carolina Commissioner of Insurance.

10. The Hearing Officer finds that Petitioner's 1033 waiver application should be denied.

Order

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Petitioner's application for a Resident Public Adjuster license is hereby denied and Petitioner's 1033 waiver application is denied.

This the 27th day of August, 2015.



Stewart Johnson, ~~H~~earing Officer
North Carolina Department of Insurance

APPEAL RIGHTS: This Order may be appealed to Superior Court within 30 days of receipt, as set forth in the General Statutes of North Carolina.


NOTICE: Be aware that if a state or federal regulator other than the N.C. Department of Insurance has issued an occupational or professional license to you, that regulator may require you to report this administrative action to it. The N.C. Department of Insurance cannot give you legal advice as to the specific reporting requirements of other state or federal regulators.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the foregoing ORDER AND FINAL AGENCY DECISION by delivering a copy of the same via certified U.S. mail, return receipt requested, in a postage prepaid enveloped addressed as follows:

Craig R. Sutton
212 N. Peartree Ln. Apt. B
Raleigh, N.C. 27610

This the 31st day of August, 2015.



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