

**BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF THE ADMINISTRATIVE  
HEARING TO APPEAL THE DEPARTMENT'S  
DENIAL OF MICHAEL WRIGHT'S APPLICATION  
FOR RESIDENT INSURANCE PRODUCER LICENSE**

AID NO. 2009- 089

**ORDER**

A hearing was held on November 3, 2009 in the hearing room of the Arkansas Insurance Department ("Department") in accordance with the provisions of the Arkansas Administrative Procedures Act and pertinent provisions of the Arkansas Insurance Code. William R. Lacy acted as the Hearing Officer pursuant to his designation as such by Jay Bradford, Insurance Commissioner, in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Amanda Capps Rose, Associate Counsel. Michael Wright ("Appellant") represented himself and voluntarily waived his right to legal counsel.

**FINDINGS OF FACT**

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.
2. Appellant is a resident of Benton, Arkansas.
3. Appellant submitted his Uniform Application for Arkansas Individual Resident Insurance Producer License on or about July 16, 2009.
4. On August 7, 2009, Fred Stiffler, Jr., Director of the Department's License Division advised the Appellant that his application was denied due to the Appellant's probationary status with the Pulaski County Circuit Court and advised the Appellant of his right to an administrative hearing to appeal the determination.

5. On August 20, 2009 the Department received the Appellant's request for an administrative hearing.

6. The requested hearing was scheduled for November 3, 2009 and a Notice of Hearing was sent to the Appellant. The hearing was conducted on November 3, 2009 as scheduled.

7. Appellant is on probation in association with criminal conduct committed in 2007, to which the Appellant pleaded guilty and which the Appellant disclosed on his application for licensure.

8. Appellant pleaded guilty pursuant to the terms of the First Offender Act, Ark. Code Ann. §§ 16-93-301, *et seq.*, the relevant provisions of which are as follows:

a. When a first offender pleads guilty or enters a plea of *nolo contendere*, the judge may defer proceedings, without a finding of guilt, and place the offender on probation for a period of not less than one (1) year.

b. Upon violation of any term or condition of the probation, the judge may enter an adjudication of guilt.

c. Successful completion of the probationary period results in discharge by the court without an adjudication of guilt and the record is expunged.

d. During the period of probation and following successful completion thereof, a defendant under this Act is not considered to have a felony conviction, with certain exceptions that do not apply to the Appellant.

#### **CONCLUSIONS OF LAW**

Based upon the above and foregoing Findings of Fact and the evidence before him, the Hearing Officer concludes as follows:

9. Based upon the evidence presented and the provisions of the First Offender Act, Ark. Code Ann. §§ 16-93-301, *et seq.*, the Commissioner lacks a legal basis to deny the Appellant's application for licensure.

10. Appellant has not been convicted of a felony and has, to date, complied with the terms and conditions of his probation.

11. Appellant's failure to successfully complete his probation will result in revocation of any producer license issued to him pursuant to Ark. Code Ann. § 23-64-512(a)(6).

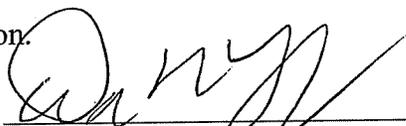
**RECOMMENDATIONS OF THE HEARING OFFICER**

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and other matters before him, the Hearing Officer recommends:

12. That the Department's denial of the Appellant, Michael Wright's, Application for an Arkansas Individual Resident Insurance Producer License be reversed.

13. That Appellant be promptly issued a permit to sit for the Arkansas Resident Producer's Examination.

14. That the Appellant be ordered to notify the Department of any failure to strictly comply with the terms and conditions of his probation.

  
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WILLIAM R. LACY  
DIRECTOR, PROPERTY AND  
CASUALTY DIVISION and  
HEARING OFFICER

**CERTIFICATION**

I, Jay Bradford, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer were made by and under my authority and supervision by William R. Lacy, Director of the

Property and Casualty Division and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendations in full and enter this Order.

THEREFORE, it is hereby ORDERED that the Appellant shall be issued a permit to sit for the Arkansas Resident Producer's Examination.

IT IS SO ORDERED THIS 5<sup>th</sup> DAY OF NOVEMBER, 2009.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS