



4. On April 21, 2010, Fred Stiffler, Jr., the Director of the Department's License Division, sent correspondence to Mr. Horner denying his application based on the facts set forth in the preceding paragraph and giving Mr. Horner the right to request an administrative hearing on the matter.

5. Mr. Horner requested a hearing, which was conducted on July 1, 2010.

6. Mr. Horner presented evidence and testimony of colleagues to fulfill his burden of showing that the Department should reverse its decision and grant his application. Mr. Horner testified about the circumstances surrounding the proceedings of the Arkansas Supreme Court Committee on Professional Conduct, the bankruptcy, and the tax liens.

7. Mr. Horner's credit report reveals a substantial delinquency on his federal student loan; however, Mr. Horner presented evidence of having established a payment plan to repay this debt. Mr. Horner also presented evidence of a payment plan to resolve the state tax liens.

#### **CONCLUSIONS OF LAW**

8. The requirements to be licensed as an adjuster are set forth as follows in Ark. Code Ann. § 23-64-209(b):

(b) To be licensed as an adjuster, the applicant must be qualified as follows:

(1) Must be of the legal age of majority, or have had the disabilities of minority removed for all general purposes and provide evidence of same;

(2) Must be a resident of Arkansas, or resident of another state which will permit residents of Arkansas to act as adjusters in the other state;

(3) Must be a full-time salaried employee of a licensed adjuster, or a graduate of a recognized law school, or must have had experience or special education or training as to the handling of property, casualty, or

workers' compensation loss claims under insurance contracts of sufficient duration and extent reasonably to make him or her competent to fulfill the responsibilities of an adjuster;

(4) Must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation;

(5) Must have and maintain in this state an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of an office in the home of the licensee. A licensed, nonresident adjuster shall not be required to maintain an office in this state;

(6)(A)(i) Must pass a written examination as to his or her competence to act as a property, casualty, or workers' compensation insurance adjuster as shall be required by the commissioner.

9. Based upon the evidence before the Hearing Officer and the safeguards, terms and conditions set forth below, Mr. Horner meets the requirements for obtaining his adjuster license.

THEREFORE, it is hereby ORDERED that Max Horner be allowed to sit for the adjuster's examination required to obtain an adjuster's license subject to the following:

1. Should Mr. Horner's employment with Affirmative Risk Management terminate for any reason, Mr. Horner shall provide notice of the same to the Department within ten (10) days and the Department reserves the right to suspend or revoke Mr. Horner's adjuster's license for that reason.

2. Mr. Horner shall provide evidence of a payment plan with the Internal Revenue Service and shall file a report every quarter evidencing payment as agreed under your agreements to pay state and federal tax liens and your federal student loan.

3. If Mr. Horner receives any additional sanction or disciplinary action from the Arkansas Supreme Court Committee on Professional Conduct, the Department reserves the right to suspend or revoke Mr. Horner's adjuster's license for that reason.

IT IS SO ORDERED THIS 13<sup>th</sup> DAY OF DECEMBER, 2010.

  
LENITA BLASINGAME  
CHIEF DEPUTY COMMISSIONER