

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

IN THE MATTER OF

NATHAN MCFARLAND
PETITIONER

A.I.D. NO. 2018- 68

ORDER

On this day, the matter of the adjuster license application of Nathan McFarland (“Petitioner”) came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). A hearing was held on May 23, 2018, in the First Floor Hearing Room of the Arkansas Insurance Department (“Department”) pursuant to the Notice of Hearing dated May 1, 2018 and sent by certified mail to the Petitioner's address. The hearing was held before Chief Deputy Commissioner Russ Galbraith (“Hearing Officer”) pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Gray Allen Turner, Associate Counsel. The Petitioner was present.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*

2. Petitioner, a resident of Missouri, applied for a Non-Resident Adjuster License on May 28, 2017.(D.2 through 18)

3. The Department denied Petitioner's application on March 26, 2018.(D.19)

4. Petitioner timely requested a hearing as to the license denial on April 23, 2018. (D.20)

5. Petitioner was sent an notice of hearing on May 1, 2018, to the address provided by the Department.(D.21)

6. Petitioner, in his adjuster application and hearing testimony, disclosed several felony and misdemeanor convictions. In 2008, Petitioner was sentenced to ten years incarceration for felony convictions in Missouri. The felonies were drug related and included possession of drugs stolen from a veterinary clinic. Petitioner was released from prison on parole on 2010 and attended a drug treatment.(D.5)

7. In 2010, Petitioner was arrested and convicted of misdemeanor theft of property from Walmart. His parole was revoked and he was again sentenced to a term in prison. Petitioner was released by 2013. (D.5)

8. In 2013, Petitioner was again arrested for possession of a controlled substance and drug paraphernalia. His parole was revoked once more and he was sentenced to another term of incarceration and drug treatment. (D.5)

9. In 2016, Petitioner was discharged from all probation and parole and has not re-offended since that time. (D.12)

10. Since 2016, Petitioner has held several short-term jobs and has worked

a catastrophic claim adjuster.

11. Petitioner submitted several exhibits into the record that were admitted without objection and considered. These included letters of recommendation, college transcripts, certificates, and his resume. (P.1 through12)

CONCLUSIONS OF LAW

From the Findings of Fact contained herein, the Commissioner concludes as follows:

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.

2. To be issued an adjuster's license, an application must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation as required by Ark. Code Ann. § 23-64-209(b)(4). The Petitioner has not presented sufficient evidence to meet these requirements.

3. The Petitioner's pattern of felony convictions followed by parole and probation revocations call into question his fitness to hold an adjuster's license.

4. Petitioner was convicted of several felonies in 2008 for possession of a controlled substance and possession of stolen medication. Petitioner was released on parole in 2010.

5. Petitioner was convicted of misdemeanor theft of property which led to his parole being revoked in 2010 and re-incarceration.

6. Petitioner, after being released from prison for his 2010 conviction, was again arrested and convicted for possession of a controlled substance in 2013 and sentenced to a term of incarceration.

7. Petitioner was discharged from all probation and parole obligations in 2016 and has not been convicted of any additional crimes since that time.

8. Petitioner failed to present sufficient evidence to prove he has been successfully rehabilitated. The Petitioner has only been released from parole since 2016.

RECOMMENDATION OF HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That the Arkansas non-resident adjuster license application of the Petitioner be denied.



Russ Galbraith
Chief Deputy Commissioner

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Russ

Galbraith, Chief Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that the Arkansas non-resident adjuster application of Nathan McFarland is denied.

IT IS SO ORDERED THIS 22nd DAY OF June, 2018.



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS