

STATE OF NEW HAMPSHIRE  
Insurance Department

In re: Stephanie L. Shackford  
Docket No. Ins 07-080-EP

DECISION AND ORDER

Background

A Notice of Hearing was issued in this matter on November 28, 2007 in response to a request for hearing filed by the Petitioner, Stephanie L. Shackford, concerning the New Hampshire Insurance Department's ("Department") determination to deny the Petitioner's resident insurance producer license application. The Notice set a hearing date of December 12, 2007.

A hearing was held at the New Hampshire Insurance Department offices at 21 South Fruit St. in Concord, NH. Kathleen L. Belanger, NH Insurance Department's Director of Administration, heard the case. Upon request and consent of the parties the December 11, 2007 hearing was continued to January 18, 2008. At both proceedings Ms. Shackford represented herself. John Talley, NH Insurance Department Enforcement Investigator, and Nancy E. Hart, NH Insurance Department Compliance and Enforcement Counsel, represented the Insurance Department.

At issue in this matter is whether the Petitioner meets the requirements of RSA 420-J to hold an insurance producer license. The Department presented testimony and evidence. Exhibit A (consisting of the Uniform Individual Insurance Producer License Application filed by the Petitioner, including Affidavit of Educational Requirements, Examination Score Report, four criminal sentencing documents issued by Hillsborough (NH) Superior Court [Possession of a controlled drug, sale of a controlled drug (2), possession with intent to sell a controlled drug], and four Hillsborough County Superior Court indictments for the above offenses dated May 20, 2005, and Exhibit B (October 10, 2007 NH Insurance Department letter to the Petitioner denying her application for an insurance producer's license).

Mr. Talley testified that the Petitioner disclosed her convictions on her license application, and solicited testimony from the Petitioner and her witnesses demonstrating

the rehabilitation efforts the Petitioner has made since her arrest and convictions for sale and possession of controlled drugs, including testimony by the Petitioner's employer. The employer testified in support of the Petitioner's application. The employer also testified concerning the Petitioner's rehabilitation, work habits and work accomplishments.

Ms. Shackford presented testimony and evidence. Exhibit I (October 19, 2007 letter from the Petitioner requesting a hearing and summarizing rehabilitation and counseling undertaken), and Exhibit II (December 10, 2007 fax transmission of December 7, 2007 letter from probation officer recommending issuance of an insurance producer's license, and December 7, 2007 letter from regional vice president of Petitioner's employer recommending issuance of an insurance producer's license.)

Ms. Shackford testified that she understands the gravity of her prior actions, and has taken numerous steps to successfully rehabilitate herself. She cites her employer's and probation officer's recommendations. She testified that she is a single parent of small children. She stated that in order to improve her position at work a producer's license is necessary, and that this is important to her in order to better care for and support her children. Ms. Shackford called two witnesses to testify on her behalf. Her maternal aunt testified to the Petitioner's rehabilitation efforts and stated that she has worked hard to be able to support her 2 children emotionally and financially. Her employer testified that she performs her employment duties well, and urged a decision in this matter favorable to the Petitioner. Ms. Shackford testified that she continues to participate in individual counseling and that she will successfully complete and be released from probation on schedule in February 2008.

No requests for findings of fact or rulings of law were filed by the parties. The hearings officer did not require the parties to submit proposed findings of fact and rulings of law.

### Findings of Fact

1. Petitioner Stephanie L. Shackford applied for an individual insurance producers license from the Department and disclosed in the application and attachments to the application that she had been convicted of 4 controlled drug charges in 2005.
2. The Petitioner has no prior or subsequent criminal convictions.
3. The Petitioner has served her sentence by participating in a variety of rehabilitation programs.
4. The Petitioner is scheduled to complete her probation in February 2008.
5. The Petitioner has been recommended for a license by her probation officer.
6. The Petitioner's employer has recommended that she be issued a producer license and has testified that she has "turned her life around".
7. The Petitioner has successfully completed group rehabilitation programs.
8. The Petitioner has continued participation in individual counseling beyond what was required by her probation.
9. The Petitioner is a single parent and supports her 2 small children from the income she derives from her employment.

### Rulings of Law

1. NH RSA 402-J governs the licensing of insurance producers.
2. NH RSA 402-J:12, I sets forth the criteria under which a producer license may be given a probationary license or have a license suspended, revoked, denied or non-renewed.
3. RSA 402-J:12, I(f) specifies that one criteria for probation, suspension, revocation, denial or non-renewal is "having been convicted of a felony".

### Discussion and Conclusion

The Petitioner disclosed her prior felony convictions on her license application. During the hearing on this matter the Petitioner presented evidence demonstrating completion of several rehabilitation programs. The Petitioner also testified to ongoing

individual counseling not mandated by her probation or as part of her sentence. The Petitioner presented evidence from her health carrier employer and from her probation officer that both recommend issuance of a producer license. The Petitioner presented evidence that she has made a number of efforts to become a productive member of society and her workplace. The Department presented no evidence to the contrary throughout the proceeding .

The crimes for which Ms. Shackford was convicted were unrelated to the sale or solicitation of insurance or of any other financial product. The convictions did not involve a breach of trust, theft or similar crime. Ms. Shackford had no prior or subsequent convictions to those she disclosed on her license application. By the Insurance Department's own testimony, the respondent has successfully rehabilitated herself, has demonstrated no signs of recidivism, and continues to seek assistance and counseling with her rehabilitation. The Petitioner appears, by her own actions and through the observations of others, including her employer and probation officer, to have addressed the substance abuse issues that led to her drug-related convictions.

RSA 420-J: 12, I, of New Hampshire's insurance producer law, sets forth the criteria under which an applicant for an insurance producer license may obtain or be denied such a license, and authorizes the Commissioner, in his discretion, to issue a probationary producer license.

#### Decision and Order

NOW THEREFORE, based upon the foregoing, and in accordance with RSA 402-J:12, I, the Department is hereby ORDERED to issue a probationary resident producer license to the Petitioner subject to the conditions set forth below. The probationary period for the license shall commence on date of issue and shall remain in effect for one year, or until February 12, 2009, whichever is earlier.

IT IS FURTHER ORDERED that such probationary license convert to an unrestricted license of like type, provided the Petitioner complies with the conditions enumerated below throughout the probationary period.

IT IS FURTHER ORDERED that the following conditions shall apply to the probationary license issued pursuant to this Order:

1. No consumer complaints naming the Petitioner are received by the Insurance Department for which the Department determines the Petitioner was at fault or violated NH insurance laws or Department regulations.

2. The Petitioner successfully completes her current criminal probation, due to terminate in February 2008, and provides evidence of same to the hearings officer.

3. The Petitioner complies in all respects with the requirements of New Hampshire's insurance laws and Department rules governing the sale and solicitation of insurance during the probationary period.

4. The Petitioner provides the Department with notice of the name, address and telephone number of her then current employer within 30 days following termination of employment, and advises the Department in such notice of the reasons for the termination.

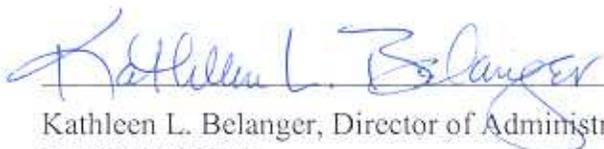
5. The Petitioner notifies the Department within 5 days of the following events: (a) probation violation; (b) revocation of probation; (c) arrest or the filing of criminal charges against the Petitioner; (d) the filing of a lawsuit arising from the Petitioner's employment in the insurance industry in which the Petitioner is a named defendant; (e) the grant or denial of any producer license in another state; (f) the filing of a disciplinary action pertaining to any insurance license the Petitioner holds in any state.

6. All notifications required of the Petitioner shall be in writing and submitted to: Kathleen L. Belanger, Director of Administration and Hearings Officer, New Hampshire Insurance Department, 21 South Fruit St., Suite 14, Concord, NH 03301.

Rehearing and Appeal

Pursuant to RSA 541:3, motions for rehearing, reconsideration or clarification or other such post-hearing motion shall be filed with the hearings officer within 30 days of the date of this Order. Filing of a rehearing motion shall be a prerequisite to appealing to the supreme court in accordance with RSA 541 and RSA 400-A:24.

SO ORDERED.

  
Kathleen L. Belanger, Director of Administration  
Hearings Officer

Dated: 2/12/08

Copies to:  
Stephanie L. Shackford  
John Talley, Enforcement Examiner