

**OFFICE OF THE INSURANCE COMMISSIONER
MARYLAND INSURANCE ADMINISTRATION**

**MARYLAND INSURANCE
ADMINISTRATION,**

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v.

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MATHURIN BIZAN DIAGO,

*

Case No. MIA 2022-09-004

Respondent.

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MEMORANDUM AND FINAL ORDER

Pursuant to §§ 2-204 and 2-214 of the Insurance Article of the Annotated Code of Maryland,¹ the Undersigned hereby concludes that the Maryland Insurance Administration (“MIA”) properly denied Mathurin Bizan Diago’s (“Respondent”) application for an insurance producer’s license.

STATEMENT OF THE CASE

This matter arises from an application filed by Respondent with the MIA on September 9, 2021 for a license to act as a resident insurance producer in the State of Maryland. The MIA issued Respondent a denial letter on September 8, 2022, which stated that the application was denied based on §§ 10-105(a), (b) and (d), 10-126(a)(1), (6) and (13), and 27-405(a)(1). The application was denied based on the MIA’s determination that Respondent demonstrated a lack of trustworthiness or competence to transact business as an insurance producer based on his prior administrative record. Respondent disagreed with the MIA’s decision and timely requested a hearing, which was granted.

¹ Unless otherwise noted, all statutory citations are to the Insurance Article of the Annotated Code of Maryland.

ISSUE

The issue presented in this case is whether the MIA properly denied Respondent's application for a resident insurance producer's license under §§ 10-105(a), (b) and (d), 10-126(a)(1), (6) and (13), and 27-405(a)(1) of the Insurance Article.

SUMMARY OF THE EVIDENCE

A. Testimony

A hearing was held via Zoom video platform on August 22, 2023. Respondent was represented by Governor Jackson, III from The Law Office of Governor Jackson, III, and Respondent provided sworn testimony on his own behalf. The MIA was represented by Assistant Attorney General Alicia Stewart. Luis Mendoza, Senior Enforcement Officer for the MIA, and Jeff Gross, Senior Enforcement Officer for the MIA, provided sworn testimony on the MIA's behalf.

B. Exhibits

MIA Exhibits (hearing)

1. Respondent's Uniform Application for Individual Producer License/Registration, dated September 9, 2021.
2. Respondent's LinkedIn Profile, dated May 3, 2022.
3. Order from Case No. MIA-2020-04-020, dated April 9, 2020.
4. E-mail correspondence regarding Respondent's application and subsequent investigation, undated.
5. Letter from Luis Mendoza to Respondent, dated May 3, 2022.
6. Respondent's Facebook Profile, undated.
7. Correspondence from IRS to Respondent, dated November 18, 2022.
8. Correspondence from Maryland Health Benefit Exchange to Respondent, dated January 2, 2020.
9. Respondent's Certificates of Achievement, undated.
10. Correspondence from IRS to Respondent, dated March 2, 2022.

11. IRS Account Balance Statement, dated January 4, 2023.
12. Judgment of Absolute Divorce, dated July 29, 2016.
13. Expungement Certificate of Compliance, dated January 19, 2021.
14. Maryland Judiciary Case Search Information for Respondent, undated.

Respondent's Exhibits:

1. Respondent's Facebook activity, dated March 2020 and September 2020.
2. Respondent's LinkedIn Profile, dated September 28, 2022.
3. Respondent's expungement records, undated.
4. Judgment of Absolute Divorce, dated July 29, 2016.
5. Respondent's Individual Tax Preparer license, dated October 3, 2022.

FINDINGS OF FACT

These findings of fact are based upon a complete and thorough review of the entire record in this case, including the hearing transcript and all exhibits and documentation provided by the Parties. The credibility of the witnesses has been assessed based upon the substance of their testimony, their demeanor and other relevant factors. To the extent that there are any facts in dispute, the following facts are found by a preponderance of the evidence to be true. Citations to particular parts of the record are for ease of reference and are not intended to exclude, and do not exclude, reliance on the entire record.

1. On September 9, 2021, Respondent submitted an application for a license to act as an individual insurance producer in the State of Maryland. (MIA Exhibit ("Ex.") 1.) On the application, there are several background questions which an applicant must answer "yes" or "no." (*Id.*) One of the background questions reads as follows:

2. Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?

"Involved" means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation,

sanctioned or surrendering a license to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license or registration. “Involved” also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE Any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education or failure to pay a renewal fee. If you answer yes, you must attach to this application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

* * * *

Respondent answered “yes” to this question. (*Id.*)

2. Respondent’s application did not include any accompanying documentation related to his status as a party to an administrative hearing, as required when he answered “yes” to question #2 on his application. (MIA Ex. 1.)
3. After receiving Respondent’s application, the MIA began reviewing Respondent’s application. (Transcript (“Tr.”) at 91.) The MIA’s review found:
 - On April 9, 2020, Respondent’s Maryland resident producer’s license was revoked by the MIA, and he was fined \$4,000 for the following reasons:
 - under § 10-126(a)(1) because Respondent failed to update his address with the MIA and failed to register his trade name as required under § 10-117.
 - under § 10-126(a)(6) because Respondent committed fraudulent and dishonest practices when he provided false information on a Massachusetts Mutual Life Insurance Company (“Mass Mutual”) application.
 - under § 10-126(a)(20) because Respondent forged another person’s name on an application for insurance.
 - Respondent knowingly and willfully made a false or fraudulent statement with reference to an application for insurance in violation of § 27-406(1).

(Tr. at 14, 136-137.)

- On June 25, 2020, at the request of the Respondent, an administrative hearing was held where the hearing officer heard testimony and evaluated evidence. (MIA Ex. 3.)

- On August 10, 2020, the hearing officer issued a ruling, affirming the MIA’s action and Respondent’s Maryland producer license was revoked. (*Id.*)
 - On September 1, 2020, after Respondent filed a petition for Judicial Review with the Circuit for Prince George’s County, the petition was denied and the MIA’s decision to revoke Respondent’s producer’s license was affirmed.
 - On September 1, 2020, the Commonwealth of Virginia State Corporation Commission, Bureau of Insurance terminated Respondent’s non-resident insurance producer’s license. (Tr. at 12, 99.)
 - On September 9, 2020, the District of Columbia Department of Insurance cancelled Respondent’s non-resident insurance producer’s license. (Tr. at 11, 105.)
 - In September 2021, Respondent paid the MIA his \$4,000 penalty. (Tr. at 113.)
 - In August 2022, the MIA discovered that Respondent had been advertising himself as a Life and Health insurance producer on his Facebook and LinkedIn social media accounts. (MIA Exs. 2, 6; Res. Exs. 1, 2; Tr. at 12.)
 - On August 18, 2022, the MIA emailed Respondent requesting that he provide an explanation as to why he was advertising himself as a Life and Health insurance producer on his Facebook and LinkedIn accounts. (MIA Ex. 4; Tr. at 71, 97.) Respondent responded that he posted that he was a Life and Health insurance producer on his social media accounts before his license revocation and that he had not been active on those accounts since his license was revoked. (*Id.*)
4. On January 24, 2022, the MIA requested that Respondent provide a copy of the cancellation of his license in the District of Columbia. (MIA Ex. 4; Tr. at 11.) The next day, Respondent told the MIA that the District of Columbia Department of Insurance does not send out cancellation letters after a license is revoked. (*Id.*)
5. On May 3, 2022, the MIA sent a letter to Respondent requesting information about his business, ZMD Financial Services. Respondent submitted his response that same day. (MIA Ex. 5; Tr. at, 68-69, 97.)

On September 8, 2022, after the investigation of Respondent’s application was completed, the MIA sent an order to Respondent denying his license application. (Tr. at 9.) The letter from the MIA denying the Respondent’s application for a producer’s license cites §§ 10-105, 10-126, and 27-405 as the bases for the denial. (MIA Ex. 12) Based on the license denial, Respondent timely requested a hearing on October 3, 2022. The hearing request was granted on October 5, 2022.

DISCUSSION

A. Position of Parties.

Respondent argues that the MIA improperly denied his application for an insurance producer's license. Specifically, he argues that the MIA erroneously found that he was advertising himself as a licensed insurance producer on his Facebook and LinkedIn accounts. Finally, he maintains that there was insufficient evidence in the record to determine that Respondent was not of good character or competency.

The MIA argues that the denial of Respondent's application is proper in this situation based on the fact that Respondent had his previous Maryland resident insurance producer's license revoked. In addition, the MIA maintains that Respondent failed to disclose pertinent information when he did not provide required information on his insurance producer's license application. Furthermore, the MIA avers that Respondent failed to demonstrate that he was trustworthy and competent between the time his license was revoked and when he applied for a new insurance producer's license.

B. Statutory Framework.

The letter from the MIA denying the Respondent's application for a producer's license cites §§ 10-105, 10-126, and 27-405 as the bases for the denial.

Section 10-105 states, in pertinent part:

- (a) To qualify for a license as an insurance producer for life insurance, health insurance, annuities, nonprofit health service plans, dental plan organizations, health maintenance organizations, or fraternal benefit societies an individual applicant must meet the requirements of this section.
- (b) An applicant must be of good character and trustworthy based on the standards of § 10–126 of this subtitle.
- * * *
- (d) An applicant may not have committed any act that the Commissioner finds would warrant denial of a license under § 10–126 of this subtitle.

* * *

(Westlaw 2023.)

Section 10-126 states, in pertinent part:

(a) The Commissioner may deny a license to an applicant under §§ 2–210 through 2–214 of this article, or suspend, revoke, or refuse to renew or reinstate a license after notice and opportunity for hearing under §§ 2–210 through 2–214 of this article if the applicant or holder of the license:

(1) has willfully violated this article or another law of the State that relates to insurance;

* * *

(6) has committed fraudulent or dishonest practices in the insurance business;

* * *

(13) has otherwise shown a lack of trustworthiness or competence to act as an insurance producer;

* * *

(Westlaw 2023.)

Section 27-405 states, in pertinent part:

(a) It is a fraudulent insurance act for a person to act as or represent to the public that the person is:

(1) an insurance producer or a public adjuster in the State if the person has not received the appropriate license under or otherwise complied with Title 10 of this article;

* * *

(Westlaw 2023.)

The burden of proof in this case is by a preponderance of the evidence. Md. Code Ann., State Govt. Art. § 10-217 (Westlaw 2023.). To prove something by a “preponderance of the evidence” means “to prove that something is more likely so than not so” when all of the evidence is considered. *Coleman v. Anne Arundel County Police Dep’t*, 369 Md. 108, 125 n. 16 (2002)

(quoting the Maryland Pattern Jury Instructions) (*internal citations omitted*). Under this Standard, if the supporting and opposing evidence is evenly balanced on an issue, the finding on that issue must be against the party who bears the burden of proof. *Id.* The burden of proof in this case rests with Respondent to prove by a preponderance of the evidence that the MIA improperly denied his application for an individual insurance producer license.

C. The MIA’s denial of Respondent’s license is authorized by §§ 10-105, 10-126, and 27-405 of the Maryland Insurance Article.

Section 10-105(a) states that to qualify for an insurance producer’s license, the applicant must meet the requirements of this section. In this case, Respondent did not meet the requirements for the application or the license. First, the MIA found that Respondent did not meet the requirements of the application because he answered “yes” to being involved in administrative action but did not provide the required documentation with his application as expressly required by Question 2 of the application. In fact, Respondent did not provide information pertaining to the cancellation of his license in the District of Columbia until January 24, 2022, and only after the MIA requested it. Additionally, Respondent never provided any documentation of the cancellation of his license in Virginia, even after it was requested by the MIA. Second, the MIA found that Respondent did not demonstrate that he had good character or trustworthiness. Here, Respondent continued to advertise on his Facebook and LinkedIn social media accounts that he was in the business of life and health insurance, even after his license was revoked in 2020. Furthermore, Respondent provided false information and forged another person’s signature on an application for insurance, which lead to his license being revoked in 2020. Therefore, I find that the MIA reasonably found that Respondent did not meet the requirements for obtaining an insurance producer’s license under § 10-105(a).

Section 10-105(b) states that an applicant must be of good character and trustworthy to qualify for an insurance producer's license. Here, Respondent was unable to demonstrate good character or trustworthiness. Respondent's failure to include the necessary documentation in his application for an insurance producer's license that pertained to the revocation of his licenses in the District of Columbia and Virginia demonstrates a lack of trustworthiness. Furthermore, Respondent only provided information for his District of Columbia revocation once the MIA requested it and he never provided the documentation of his license revocation in Virginia. Moreover, Respondent failed to demonstrate good character by falsely advertising himself as a life and health insurance producer on his Facebook and LinkedIn accounts after his license was revoked in 2020. Also, after Respondent's 2020 revocation, he was fined \$4,000 dollars, which he did not pay until a year after the decision had been finalized. Furthermore, Respondent's license was originally revoked in 2020 because it was determined that he provided false information and forged another person's signature on an application for insurance—acts that demonstrate a lack of good character. Therefore, I find that the MIA reasonably found that Respondent did not meet the requirements of good character and trustworthiness for obtaining an insurance producer's license under § 10-105(b).

Section 10-105(d) states that an applicant for an insurance producer's license may not commit any act that would warrant a denial of a license. In this case, the Record shows that Respondent has engaged in activity that could warrant the denial of an insurance producer's license. First, after Respondent's license was revoked in 2020, he continued to falsely advertise on his Facebook and LinkedIn accounts that he was a life and health insurance producer when he did not have a license. Second, Respondent used false information and forged another person's signature on an application for insurance, which led to his license being revoked in 2020. Third,

when Respondent submitted his application for a new insurance producer's license, he never provided the required documentation for the revocations of his District of Columbia and Virginia licenses. The Record shows that he only provided information pertaining to his District of Columbia license revocation after the MIA requested it, and he never provided documentation of his Virginia license being revoked. Lastly, after Respondent's license revocation in 2020, he was fined \$4,000, which he did not pay until a year after the final decision was made. Therefore, I find that the MIA reasonably determined that Respondent's actions warranted a denial of an insurance producer's license under § 10-105(d).

Section 10-126(a)(1) states that the MIA may deny an insurance producer's license if the applicant willfully violated the Insurance Article or another law of the State that relates to insurance. Here, Respondent willfully violated the insurance laws of Maryland multiple times. First, Respondent committed fraudulent and dishonest practices when he provided false information on an application for insurance in violation of § 10-126(a)(6). Second, Respondent forged another person's signature on an application for insurance in violation of § 10-126(a)(20). Lastly, Respondent failed to update his address with the MIA and failed to register his trade name, in violation of § 10-117. All of these violations led to the MIA revoking Respondent's license in 2020. Furthermore, Respondent has violated §§ 10-105, 10-126, and 27-405 by advertising himself to be an insurance producer on his Facebook and LinkedIn accounts after his license was revoked in 2020. Therefore, I find that the MIA's decision to deny Respondent's application for an insurance producer's license due to his violation of the Insurance Article under § 10-126(a)(1) is reasonable.

Section 10-126(a)(6) states that the MIA may deny an insurance producer's license if the applicant has committed fraudulent or dishonest practices in the insurance business. In this case,

Respondent engaged in fraudulent and dishonest practices that caused his license to be revoked in 2020, and when he was applying for a new license in 2021. First, Respondent's license was originally revoked in 2020 because it was determined that he provided false information and forged another person's signature on an application for insurance. Second, Respondent continued to advertise on his Facebook and LinkedIn social media accounts that he was in the business of life and health insurance even after his license was revoked in 2020. Lastly, when Respondent applied for an insurance producer's license in 2021, he did not provide the required information pertaining to the cancellation of his license in the District of Columbia with the application as required, and only provided it on January 24, 2022 after the MIA requested it. Additionally, Respondent never provided any documentation of the cancellation of his license in Virginia, even after it was requested by the MIA. Therefore, I find that the MIA's decision to deny Respondent's application for an insurance producer's license because he engaged in fraudulent or dishonest practices in the insurance business in violation of § 10-126(a)(6) reasonable.

Section 10-126(a)(13) states that the MIA may deny an insurance producer's license if the applicant has otherwise shown a lack of trustworthiness or competence to act as an insurance producer. In this case, Respondent has shown lack of trustworthiness and competency. First, in 2021, Respondent did not include the required documentation in his application for an insurance producer's license that pertained to the revocation of his licenses in the District of Columbia and Virginia. Furthermore, Respondent only provided information for his District of Columbia revocation once the MIA requested it and he never provided the documentation of his license revocation in Virginia. Second, Respondent failed to demonstrate good character by falsely advertising himself as a life and health insurance producer on his Facebook and LinkedIn accounts after his license was revoked in 2020. Third, after Respondent's 2020 revocation, he was also fined

\$4,000 dollars, which he did not pay until a year after the decision had been finalized. Lastly, Respondent's license was originally revoked in 2020 because it was determined that he provided false information and forged another person's signature on an application for insurance. Since Respondent's license was revoked in 2020, his actions have not demonstrated his ability to be trustworthy or competent as an insurance producer. Therefore, I find that the MIA's decision to deny Respondent's application for an insurance producer's license due to his lack of trustworthiness or competency as an insurance producer in violation of § 10-126(a)(13) reasonable.

Under Section 27-405(a)(1), it is a fraudulent insurance act for a person to act as or represent to the public that the person is an insurance producer in the State if the person does not hold a license to do so. . In this case, Respondent portrayed himself as being an insurance producer to the public when he did not have a license. Specifically, Respondent continued to advertise on his Facebook and LinkedIn social media accounts that he was in the business of life and health insurance, even after his license was revoked in 2020. Therefore, I find that the MIA reasonably found that Respondent fraudulently represented himself as an insurance producer when he was unlicensed in violation of § 27-405(a)(1).

Based on the foregoing, I find that Respondent did not meet his burden of proof to demonstrate that the MIA acted improperly in denying his insurance producer's license. Based on the evidence before me, I find that the MIA's denial of the Respondent's application for an insurance producer's license was proper.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, it is found, as a matter of law, that the MIA properly denied Respondent's application for a resident insurance producer's license based on §§ 10-105, 10-126, and 27-405.

FINAL ORDER

IT IS HEREBY ORDERED that the determination issued by the Maryland Insurance Administration in this matter is hereby **AFFIRMED**; and it is further

ORDERED that the records and publications of the Maryland Insurance Administration reflect this decision.

It is so **ORDERED** this 25th day of October, 2023.

KATHLEEN A. BIRRANE
Insurance Commissioner

signature on original
TAMMY LONGAN
Acting Deputy Commissioner
Office of Hearings