

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

*In re:* ) **Docket No. INS-12-243**  
)  
)  
**David S. Folmar** ) **NOTICE OF HEARING**  
) **CANCELLATION**  
)  
**National Producer No. 1073148** )  
)  
)

The Superintendent, having been informed through an e-mail from the Respondent to the Advocacy Staff's legal counsel dated February 7, 2013 that the Respondent has withdrawn his request for hearing and agreed to wait a year before reapplying for licensure, hereby cancels the hearing scheduled for February 20, 2013. Further, the Respondent having waived his right to a hearing, this administrative proceeding is now closed and the Bureau's denial of the Respondent's application for a Maine insurance producer's license, as contained in the Notice of Denial dated December 10, 2012, and as amended on January 15, 2013, is the final agency action in this matter, without prejudice to the Respondent's right to reapply after the agreed waiting period has elapsed.

February 11, 2013

  
\_\_\_\_\_  
ERIC CIOPPA  
SUPERINTENDENT OF INSURANCE

Attachments

cc: Jonathan Bolton, Assistant Attorney General  
Mark Randlett, Assistant Attorney General

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

<i>In re:</i>	)	<b>Docket No. INS-12-243</b>
	)	
<b>David S. Folmar</b>	)	<b>AMENDED NOTICE</b>
	)	<b>of</b>
<b>National Producer No. 1073148</b>	)	<b>GROUNDS FOR</b>
	)	<b>LICENSE DENIAL</b>
	)	
	)	

**NOTICE TO DAVID S. FOLMAR:**

By Notice, Order, and Opportunity for Hearing dated December 10, 2012, the Maine Superintendent of Insurance denied your October 2012 application for licensure in Maine as a nonresident insurance producer, such denial to be effective January 21, 2013 subject to your right to request a hearing. You submitted your request for hearing on December 21, 2013.

The original reasons for denial are set forth in Paragraphs 1 through 11 below. The grounds for denial are hereby **AMENDED** by the addition of Paragraphs 12 and 13 as follows:

1. The State of Wisconsin Office of the Commissioner of Insurance denied your producer license application in 2009, for failing to respond to requests for additional information regarding your "Yes" answer to the questions in your application in Wisconsin licensing relating to lawsuits and insurance contract termination for cause.
2. The Wisconsin denial constitutes grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(I) for having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.
3. The Wisconsin denial, dated March 3, 2009, included the following statement:

This license denial is an administrative action and will be reported to other states. You should check with each state that you are licensed in to see if you are required to report this administrative action. This administrative action should be disclosed on future applications.
4. You failed to disclose the Wisconsin action as required in your application for Maine licensing, and answered "No" to the application's background question that asked: "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"
5. The application included your "Certification and Attestation" with the statement:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting

false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

6. In a document dated October 30, 2012, provided by e-mail in response to a request from the Maine Bureau of Insurance for an explanation for your inaccurate response on the application, you stated that "there never was an administrative action...."

7. The facts described in Paragraphs 3, 4, 5 and 6 above constitute further grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(A) for providing incorrect, misleading, incomplete or materially untrue information in the license application, and under 24-A M.R.S. §1420-K(1)(C) for obtaining or attempting to obtain a license through misrepresentation or fraud.

8. You also answered "No" to the application's background question that asked: "Are you currently a party to, or have you ever been found liable in, any lawsuit, arbitrations or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?"

9. In fact, you are named as one of the defendants in pending litigation which alleges failure to remit premiums on the part of American Aviation Underwriters, Inc., an insurance agency of which you were an officer: U.S. Specialty Insurance Company v. American Aviation Underwriters, Inc. et al, Civil Cause No. 08-01774, filed February 15, 2008 in the District Court of Dallas County, Texas.

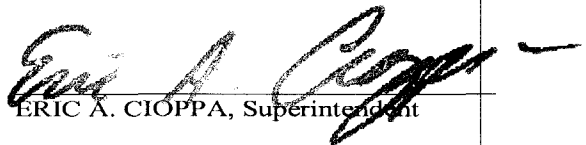
10. You are also named as one of the defendants in pending litigation which alleges failure to remit premiums on the part of American Aviation Underwriters, Inc., an insurance agency of which you were an officer: Global Aerospace, Inc. v. American Aviation Underwriters, Inc. et al, Civil Cause No. 08-2958, filed March 18, 2008 in the District Court of Dallas County, Texas.

11. The facts described in Paragraphs 8, 9 and 10 above constitute additional grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(A) for providing incorrect, misleading, incomplete or materially untrue information in the license application, and under 24-A M.R.S. §1420-K(1)(C) for obtaining or attempting to obtain a license through misrepresentation or fraud.

12. The State of Connecticut Insurance Department denied your producer license application on December 19, 2012, for failing to disclose the Wisconsin denial referenced in Paragraph 1 above, or the litigation referenced in Paragraphs 9 and 10 above.

13. The Connecticut denial constitutes further grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(D) for having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.

Dated: January 15, 2013

  
ERIC A. CIOPPA, Superintendent

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE

<i>In re:</i>	)	<b>Docket No. INS-12-243</b>
	)	
<b>David S. Folmar</b>	)	<b>LICENSE DENIAL NOTICE,</b>
	)	<b>ORDER</b>
<b>National Producer No. 1073148</b>	)	<b>and</b>
	)	<b>OPPORTUNITY FOR</b>
	)	<b>HEARING</b>

**NOTICE TO DAVID S. FOLMAR:**

Effective as of January 21, 2013, the Maine Superintendent of Insurance denies your October 2012 application for licensure in Maine as a nonresident insurance producer. The reasons for denial are set forth below:

1. The State of Wisconsin Office of the Commissioner of Insurance denied your producer license application in 2009, for failing to respond to requests for additional information regarding your "Yes" answer to the questions in your application in Wisconsin licensing relating to lawsuits and insurance contract termination for cause.

2. The Wisconsin denial constitutes grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(I) for having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.

3. The Wisconsin denial, dated March 3, 2009, included the following statement:

This license denial is an administrative action and will be reported to other states. You should check with each state that you are licensed in to see if you are required to report this administrative action. This administrative action should be disclosed on future applications.

4. You failed to disclose the Wisconsin action as required in your application for Maine licensing, and answered "No" to the application's background question that asked: "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"

5. The application included your "Certification and Attestation" with the statement:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

6. In a document dated October 30, 2012, provided by e-mail in response to a request from the Maine Bureau of Insurance for an explanation for your inaccurate response on the application, you stated that "there never was an administrative action...."

7. The facts described in Paragraphs 3, 4, 5 and 6 above constitute further grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(A) for providing incorrect, misleading, incomplete or materially untrue information in the license application, and under 24-A M.R.S. §1420-K(1)(C) for obtaining or attempting to obtain a license through misrepresentation or fraud.

8. You also answered "No" to the application's background question that asked: "Are you currently a party to, or have you ever been found liable in, any lawsuit, arbitrations or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?"

9. In fact, you are named as one of the defendants in pending litigation which alleges failure to remit premiums on the part of American Aviation Underwriters, Inc., an insurance agency of which you were an officer: U.S. Specialty Insurance Company v. American Aviation Underwriters, Inc. et al, Civil Cause No. 08-01774, filed February 15, 2008 in the District Court of Dallas County, Texas.

10. You are also named as one of the defendants in pending litigation which alleges failure to remit premiums on the part of American Aviation Underwriters, Inc., an insurance agency of which you were an officer: Global Aerospace, Inc. v. American Aviation Underwriters, Inc. et al, Civil Cause No. 08-2958, filed March 18, 2008 in the District Court of Dallas County, Texas.

11. The facts described in Paragraphs 8, 9 and 10 above constitute additional grounds for denial of your application for Maine licensing under 24-A M.R.S. §1420-K(1)(A) for providing incorrect, misleading, incomplete or materially untrue information in the license application, and under 24-A M.R.S. §1420-K(1)(C) for obtaining or attempting to obtain a license through misrepresentation or fraud.

Based upon the above grounds, your application for a Maine insurance producer license is **denied** as of January 21, 2013 pursuant to 24-A M.R.S. §§1417 and 1420-K, subject to your right to request a hearing as described below.

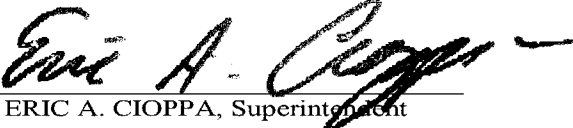
**Under the Maine Insurance Code, specifically 24-A M.R.S. §1417 and §1420-K, you have the right to request a hearing before the Superintendent or his designee. At such a hearing, you would have the right to present evidence and arguments in your defense and the staff of the Bureau of Insurance would bear the burden of proving the above violations by a preponderance of evidence.**

**If you request a hearing, you will receive further communication regarding scheduling. The matters to be determined through the hearing process are the establishment of the above grounds, and the appropriate sanctions, which can include any available remedy under applicable laws, including the imposition of civil penalties.**

**If you wish to request a hearing, you should notify the Bureau of Insurance no later than January 21, 2013. If you do not file a written request for a hearing within 30 days from the time you know or reasonably should have known of this impending act through this Notice, you will lose your right to request a hearing on this matter, and your license denial will be final, in accordance with this Notice and Order. Pursuant to 24-A M.R.S. §213(3), this Notice from the Superintendent to you shall be deemed to have been given when deposited in a mail depository of the United States Post Office.**

Any request for a hearing, as well as all other communications regarding this Notice, Order, and Opportunity for Hearing must be addressed to Bureau staff Attorney Arthur G. Hosford, Jr., Bureau of Insurance, #34 State House Station, Augusta, ME 04333-0034. You may also reach Attorney Hosford by e-mail at [arthur.g.hosford.jr@maine.gov](mailto:arthur.g.hosford.jr@maine.gov) or telephone at 207 624-8429.

Dated: December 10, 2012

  
ERIC A. CIOPPA, Superintendent