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STATE OF ALASKA

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In re:)
)
APPLICATION FOR LICENSE)
OF JAY L. BANE,)
7112 Peck Avenue, Unit A)
Anchorage, AK 99504.)
_____)

Case No. LD 06-01

STATEMENT OF ISSUES

Linda S. Hall, Director, Division of Insurance (division), Department of
Commerce, Community, and Economic Development, State of Alaska, states:

1. On or about March 4, 2004, Dave Wier (Mr. Wier), compliance officer
of Trust Financial Group LTD, contacted the division asking for information regarding
licensure of an individual who had been convicted of a felony assault. The individual in
question is Jay L. Bane (Mr. Bane). Without the documentation regarding Mr. Bane's history,
the division could not determine if the conviction would subject Mr. Bane to the requirements
under 18 U.S.C. 1033 for the director to grant consent to work in the business of insurance.
Mr. Wier was given instructions regarding what Mr. Bane needed to submit to the division to
apply for licensure.

2. Also in March 2004, after preliminary research of the conviction issue,
division personnel advised both Mr. Wier and Mr. Bane that Mr. Bane should not be employed
in any capacity in an insurance agency before obtaining the director's consent to do so pursuant
to federal and state law. 18 U.S.C. 1033 and AS 21.36.355

1 3. Although the division provided the information to Mr. Wier and Mr.
2 Bane in 2004, the division did not receive an application from Mr. Bane until June 20, 2005, at
3 which time Mr. Bane submitted an application for consent under 18 U.S.C. 1033 as well as for
4 producer licensure as an individual working in a firm with life authority representing Trust
5 Financial Group LTD. The application listed two felony convictions. Since the application was
6 incomplete, the division, by certified mail, sent Mr. Bane a letter requesting additional
7 information. The letter also informed Mr. Bane that he should not be working in any capacity
8 for Trust Financial Group LTD unless and until the director granted him written consent under
9 18 U.S.C. 1033 to do so.
10

11 4. The information regarding Mr. Bane's criminal convictions is as follows:

12 a. In April 1989, Mr. Bane was charged with Aggravated Assault, a
13 felony in the fourth degree, to which he pled guilty. He was sentenced to the Ohio State
14 Reformatory for one year with one year suspended and placed on probation for three years,
15 fined \$600, and required to pay for the cost of prosecution.
16

17 b. Mr. Bane was charged with Battery and Disorderly Conduct, both
18 misdemeanors, in Wisconsin for actions that occurred on May 25, 1990. On August 17, 1990,
19 Mr. Bane was found guilty of the Battery charge, which resulted in four months incarceration in
20 a county jail in Wisconsin. The Wisconsin offense resulted in a probation violation in Ohio.
21 Mr. Bane's probation was continued but, due to this violation, he was also ordered to seek
22 alcohol counseling and to secure employment within Ohio.
23

24 c. In April 2002, in Kenai, Alaska, Mr. Bane was initially charged with
25 First Degree Felony Assault, to which were added charges of Assault in the Second Degree,
26 Assault in the Third Degree, both felonies, and Assault in the Fourth Degree, a misdemeanor.

1 Through a plea bargain, upon a plea of no contest, Mr. Bane was subsequently convicted of the
2 Second Degree Felony Assault and the other charges were dismissed. Mr. Bane was sentenced
3 to eight years incarceration with five years suspended and three years probation. He was also
4 given credit for time spent in a Salvation Army program from September 24, 2002 thorough
5 August 14, 2003 and fined \$100. Mr. Bane is on probation until April 10, 2007. Mr. Bane has
6 attested that he has paid all costs and fines arising out of his felony convictions.

7
8 5. A July 28, 2005 letter from Alternative Behavior and Choices Services, a
9 state-approved batterer's intervention program, which Mr. Bane was ordered to attend, indicates
10 Mr. Bane completed two months of classes, with an anticipated October 2005 course
11 completion date, although Mr. Bane has not submitted evidence that this class was completed.
12 A letter from him, received by the division August 22, 2005, inaccurately stated that he had
13 completed all recommended treatment programs, prior to completion of this court-ordered
14 program.

15 6. Further investigation regarding Mr. Bane revealed an appeal of an Alaska
16 unemployment insurance claim that goes back to 2001, although the appeal was not heard until
17 2004. The appeal was denied and one of the conclusions was that "Mr. Bane knowingly
18 withheld material information with the intent to receive unentitled benefits during the weeks
19 under appeal." The appeal concluded that the withholding is proof of intent to defraud. An
20 inquiry by the division to the Alaska Department of Labor and Workforce Development,
21 Employment Security Division, regarding this matter found that Mr. Bane has never repaid the
22 amount that the appeal determined had been overpaid to him, and Mr. Bane currently owes
23 \$800, including a \$240 penalty, to the department.
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7. Under the provisions of AS 21.06.255, the division requested and received information regarding Mr. Bane from the Child Support Services Division of the Department of Revenue. Mr. Bane is not in compliance with the terms of his child support obligations.

8. In his October 24, 2005 statement to the director as to why he should be granted a license, Mr. Bane states that he “willingly completed all incarcerations, time in half way houses, and time in treatment facilities without any violations.” In fact, as described above, Mr. Bane was found guilty of probation violations in 1990, while on probation for a felony conviction, making this attestation by Mr. Bane inaccurate. He further states that “Since my felony convictions I have had no other legal problems, or legal violations of any sort.” There is no mention of the unemployment insurance claim appeal, nor of his noncompliance with the terms of his child support obligations as discussed above.

9. Because Mr. Bane’s felony convictions involve crimes of dishonesty, under 18 U.S.C. 1033 and AS 21.36.355, he is required to obtain the director’s express consent to work in the business of insurance in any capacity.

10. Mr. Bane had been advised repeatedly that, based on the information he submitted to the division, his felony convictions required the director’s consent before he could work in any capacity in an insurance agency such as Trust Financial Group, LTD. But Mr. Bane acted as an independent contractor for Trust Financial Group, LTD and Mr. Wier even after the division notified him both verbally and in writing that he should not. Letters from Mr. Wier and Mr. Bane’s coworkers substantiate that he was working with them at Trust Financial Group, LTD in Fairbanks in 2004 and 2005 before he submitted his application.


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11. Each of Mr. Bane's felony convictions is a basis to deny a license under AS 21.27.410(a)(7). His fraud in obtaining unemployment insurance benefits, his noncompliance with the terms of his child support obligations, and his criminal convictions also demonstrate untrustworthiness and are a basis to deny a license under AS 21.27.020(a) and (b)(4) and 21.27.410(a)(8). His misstatement of certain facts in his sworn statement is evidence of wilful misrepresentation and a basis to deny a license under AS 21.27.040(a) and 21.27.410(a)(3).

12. Each of Mr. Bane's felony convictions is a basis to deny him consent to work in insurance under 18 U.S.C. 1033 and AS 21.36.355.

13. Pursuant to AS 21.27.020(a) and (b)(4), 21.27.040(a), and 21.27.410(a)(7) and (8), the application of Jay L. Bane for an insurance producer license is hereby DENIED. His request for the director to grant him consent under 18 U.S.C. 1033 to work in the business of insurance is also DENIED.

DATED this 20th day of January, 2006.



Linda S. Hall
Director