

**IN RE:
JAMES W. LEWIS
Docket No. INS 06-600**

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) **DECISION AND**
) **ORDER**
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Procedural History and Facts

Title 18 U.S.Code §1033, in relevant part, prohibits a person from being authorized to participate in the business of insurance if he or she has been convicted of a felony that involves dishonesty or false statement. That statute further allows a person whom has been convicted of a criminal felony involving dishonesty or a breach of trust to participate in the business of insurance if that person has the written consent of an insurance regulatory official. Pursuant to application dated January 23, 2006, James W. Lewis, a resident of Vassalboro, Maine, applied to the Superintendent of Insurance for written consent. A public hearing with respect to Mr. Lewis’ application for written consent was held on February 6, 2006. Superintendent of Insurance Alessandro Iuppa designated Thomas M. Record, Senior Staff Attorney as hearing officer. Mr. Lewis received notice of and was present at the hearing. Bureau Staff Attorney Arthur Hosford, Jr. also participated in the hearing. At Mr. Lewis’ request, a two week notice of hearing was waived.

Mr. Lewis’ application for written consent to engage in the business of insurance indicates that it was prepared in connection with his employment as an insurance adjuster by the St. Paul Travelers Insurance Group. It should be noted, however, that the prohibition on participation in the business of insurance contained in federal law is not limited to those occupational tasks for which occupational licensure is necessary, but rather encompasses all employment.

Information provided by Mr. Lewis to the Bureau of Insurance indicates that he was found guilty of larceny in violation of 17 M.R.S.A. §2120 by the Kennebec County Superior Court on March 28, 1973. As that crime was designated as a felony at the time and the crime of larceny is a crime involving dishonesty, there is not a question of the applicability of §1033 to Mr. Lewis’ situation.

Although the currently available public records do not describe the details of Mr. Lewis 1973 case, he acknowledges, as provided in his testimony at the hearing , that he and another individual stole a car battery while drinking. Mr. Lewis was 19 years old at the time.

Uncontroverted evidence establishes that Mr. Lewis received a 30 day imprisonment sentence in Kennebec County Jail. He was released early for good behavior. All stolen property was returned to the owner. All conditions of his convictions have been long since satisfied and he has been released from the correctional system. Mr. Lewis testified that he has had no further arrests or convictions since 1975. No evidence to the contrary has been produced. Mr. Hosford testified that the Bureau staff had found no information as to any other conduct by Mr. Lewis that would be detrimental to his receipt of a waiver.

Mr. Lewis' application for hearing and several letters of reference indicate that he has had a stable work history for many years. For the past 23 years he has been employed by St. Paul Travelers (or its corporate predecessors) and is a technical claims specialist. He has several letters of reference from officials with that insurer that testify to his solid work record and the trust they have in him. They also indicate that he was forthcoming at the time of his hiring in 1983. He also received a personal letter of reference from New Hampshire Insurance Commissioner Roger Sevigny who was his prior colleague with the Travelers Insurance Company. Commissioner Sevigny attests to Mr. Lewis' "high degree of integrity and excellent work ethic".

Findings

The activity for which Mr. Lewis was convicted occurred more than 30 years ago. No evidence was presented that suggests other than that Mr. Lewis has been fully rehabilitated since that time. There is no evidence to suggest that his employment in the business of insurance poses any risk or threat to insurance consumers or to insurers. While both the burden of going forward and the burden of persuasion for going forward with an application for written consent for otherwise prohibited persons to engage in insurance activities are on the applicant, Mr Lewis has met those burdens.

Conclusion and Order

James W. Lewis is hereby granted consent by this Office to engage in insurance activities within the meaning of 18 United States Code §1033.

Notice of Appeal Rights

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It is appealable to the Superior Court in the manner provided in 24-A M.R.S.A. §236 and M.R. Civ. P. 80C. Any party to the hearing may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal on or before 40 days after the date appearing below.

February 6, 2006

Thomas M. Record
Senior Staff Attorney
Maine Bureau of Insurance
Designated Hearing Officer