

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

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***In re:***

**DONNA HERBST**

**Docket No. INS-18-217**

**NPN Number: 18673386**

**LICENSE DENIAL  
NOTICE, ORDER,  
and  
OPPORTUNITY FOR  
HEARING**

***NOTICE TO DONNA HERBST:***

Effective as of **February 6, 2019**, the Maine Superintendent of Insurance denies your July 30, 2018, application for licensure in Maine as a nonresident insurance producer. The reasons for denial are set forth below:

1. On or around January 14, 1991, you were convicted of four counts of forgery, a felony in the State of California (Superior Court of Santa Clara County, CA, Case No: B9085883). You were an employee of the victim, Peninsula Continuous Care Service, employed in the accounts payable department and, without authority, forged the name of another person on multiple checks. You were sentenced to sixty days of incarceration with credit for one day time served. You were required to complete three years' probation and ordered to pay court costs and fines. On March 18, 1993, you completed your sentence. This conviction constitutes grounds for denial of your application for Maine licensure under 24-A M.R.S. § 1420-K(1)(F), for having been convicted of a criminal offense as provided in 5 M.R.S. § 5301(2)(D). Under 5 M.R.S. §§ 5301 & 5303, a licensing agency may consider a felony conviction for a period of three years from the applicant's discharge from the criminal system. Section 5303(1) provides that there is no time limitation for consideration of an applicant's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against the licensee. Your conduct is otherwise grounds for disciplinary action pursuant to 24-A M.R.S. §§ 1420-K(1)(H) for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business.
2. On or around July 8, 2017, you applied for licensure in your home state of Florida. You answered "No" to the application background question regarding, among other things, whether you had ever been found guilty of a felony crime. Based on your material misstatement on your application regarding your criminal history, the Florida Bureau of Licensing denied your application on October 16, 2017. You requested a hearing; however, the matter was resolved by Consent Order on December 31, 2017. You were required to pay an administrative penalty in the amount of one thousand five hundred dollars (\$1,500). The State of Florida issued you a resident producer license on January 17, 2018.
3. On or around July 30 2018, you applied for a Maine non-resident producer license. You answered "No" to the following background question on the electronic

application form: "Have you ever been convicted of a felony, had a judgement withheld or deferred, or are you currently charged with committing a felony?"

4. You also answered "No" to the following background question on the electronic application form: "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?" The application explains that "[i]nvolved' also means being named as a party to an administrative or arbitration proceeding, which is related to a 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 reviewing your application, Bureau staff identified the 2017 Florida administrative action and, through that action, learned of your felony conviction. By failing to disclose the existence of your felony conviction and the Florida administrative action when you applied, and certifying that the information was true and complete, you attempted to obtain your license based in part upon incorrect, misleading, incomplete or materially untrue information. Title 24-A M.R.S. § 1420-K(1)(A) provides that the Superintendent may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with section 12-A, or take any combination of such actions, for providing incorrect, misleading, incomplete or materially untrue information in the license application.
7. Based on the conduct underlying your criminal conviction, as described in Paragraph One; your failure to disclose the criminal conviction, as described in Paragraph Three; and your failure to disclose the administrative action, as described in Paragraph Four, the Superintendent finds that you have not been sufficiently rehabilitated to warrant the public trust, within the meaning of 5 M.R.S. § 5302.

Based upon the above grounds, your July 30, 2018, application for a Maine insurance producer license is **denied** as of **February 6, 2019**, pursuant to 24-A M.R.S. §§ 1417 and 1420-K.

**Under the Maine Insurance Code, specifically 24-A M.R.S. § 1417 and § 1420-K, you have the right to a hearing before the Superintendent or his designee to appeal this denial. If you request a hearing, you will have the right to present evidence and arguments in your defense. The hearing officer will determine whether a denial of your application is reasonable based on the evidence presented during the hearing. As the applicant, you will bear the burden of proving that you are sufficiently rehabilitated to warrant the public trust.**

**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.**

**To request a hearing, you must notify the Bureau of Insurance in writing no later than February 6, 2019. 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 act through this Notice and Order, you will lose your right to request a hearing on this matter. 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 Licensing Attorney Lindsay J. Laxon, Bureau of Insurance, #34 State House Station, Augusta, Maine 04333-0034 (for US Postal Service deliveries) or 76 Northern Avenue, Gardiner, Maine 04345 (for private carrier deliveries, such as FedEx or UPS). You may also reach Ms. Laxon by e-mail at [Lindsay.J.Laxon@maine.gov](mailto:Lindsay.J.Laxon@maine.gov) or by telephone at (207) 624-8429.

January 2, 2019



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Eric A. Cioppa  
Superintendent of Insurance