



FLORIDA
DEPARTMENT OF
FINANCIAL SERVICES



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ADMINISTRATIVE
HEARINGS DIVISION

TOM GALLAGHER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

FILED

AUG 29 2005

AP

IN THE MATTER OF:

PETER J. SOTO

Docketed by: SJ

CASE NO: 80112-05-AG
DOAH CASE NO: 05-1241

DSM
CLOSED

FINAL ORDER

THIS CAUSE came on for consideration and final agency action. On January 20, 2005, The Department of Financial Services (hereinafter the "Department") denied Peter J. Soto's (hereinafter "Mr. Soto") application for licensure as a residential general lines insurance agent. Mr. Soto timely filed a request for a proceeding pursuant to Section 120.57, Florida Statutes. The Department's Motion to File an Amended Notice of Denial was granted and filed on April 14, 2005. Pursuant to notice, the matter was heard before Daniel Manry, Administrative Law Judge, Division of Administrative Hearings, on Wednesday, June 8, 2005.

After consideration of the evidence, argument and testimony presented at hearing, the Administrative Law Judge issued his Recommended Order. (Attached as Exhibit A). The Administrative Law Judge recommended that Mr. Soto's application for licensure as a residential general lines insurance agent be denied. Neither party filed exceptions to the Recommended Order.

Paragraph eighteen of the Recommended Order suggests that Mr. Soto is entitled to a separate administrative hearing to determine when he will be eligible for licensure under the Department's rules. The Department's Amended Notice of Denial imposed a waiting period of sixteen years from the date Mr. Soto pled guilty to the charges. The waiting period consists of

fifteen years for commission of a class A crime, and one year for failure to disclose a pending criminal action in his application. A Notice of Rights and an Election of Proceedings were provided with the Notice of Denial. Mr. Soto elected a formal hearing to contest the Department's facts, specifically identifying the waiting period as a disputed issue. The waiting period is clearly at issue in this proceeding. Mr. Soto failed to present credible mitigating circumstances to warrant a reduction in the waiting period. The waiting period of sixteen years imposed by the Department is final, based on current circumstances. Should Mr. Soto file an application in the future alleging new mitigating circumstances, he will be entitled to all of the rights accorded by Chapter 120, Florida Statutes, the "Administrative Procedures Act," to contest the Department's decision, including the right to a formal administrative hearing, if necessary. However, Mr. Soto cannot, now, without additional facts in an additional application, request a separate administrative hearing to determine when he will be eligible to licensure. Thus, paragraph 18 of the Administrative Law Judge's Conclusions of Law is rejected to the extent, if any, it differs from the preceding analysis.

Upon careful consideration of the record, the submissions of the parties and being otherwise fully advised in the premises, it is

ORDERED:

1. The Findings of Fact of the Administrative Law Judge are adopted in full as the Department's Findings of Fact.
2. The Conclusions of Law of the Administrative Law Judge are adopted in full as the Department's Conclusions of Law, except as modified in this Final Order.
3. The Administrative Law Judge's recommendation that Mr. Soto's application for licensure as a resident general lines insurance agent be denied pursuant to Sections 626.611(2),

(7), and (14), and 626.621(8), Florida Statutes, and Florida Administrative Code Rule 69B-211.042, is approved and accepted as being the appropriate disposition of this case.

ACCORDINGLY, Peter J. Soto's application for licensure as a residential general lines insurance agent is DENIED. Pursuant to Florida Administrative Code Rules 69B-211.042(2), (4)(b) (6), (8), and (21)(s), Mr. Soto shall not be eligible for licensure or appointment under the Florida Insurance Code until October 13, 2020, sixteen years from the date of adjudication of the crime.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a Notice of Appeal with the General Counsel, acting as the agency clerk, at 612 Larson Building, Tallahassee, Florida 32399-0333, and a copy of the same and the filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

DONE and ORDERED this 29th day of August, 2005.




KAREN CHANDLER
Deputy Chief Financial Officer

COPIES FURNISHED TO:

Honorable Daniel Manry
Administrative Law Judge
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