

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of Insurance and Financial Services

**John Thomas Yeska, Jr.,
Petitioner**

v

**Case No. 20-1049-L
Docket No. 20-002285**

**Department of Insurance and Financial
Services,
Respondent.**

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For the Petitioner:

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For the Respondent:

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**Issued and entered
this 10th day of May 2021
by Randall S. Gregg
Senior Deputy Director**

FINAL DECISION

I. INTRODUCTION

On January 7, 2021, Administrative Law Judge Thomas A. Halick (Judge Halick) issued a Proposal for Decision (PFD). Judge Halick recommended that the Director issue a final decision consistent with the Findings of Fact and Conclusions of Law as outlined in the PFD. The factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. In addition, neither party filed exceptions to the PFD. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. *Attorney General v. Public*

Service Comm'n, 136 Mich App. 52 (1984); *see also* MCL 24.281. For these reasons, and as set forth below, the PFD is adopted in full and Petitioner's appeal of Respondent's Notice of License Denial is dismissed.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Findings of Fact in the January 7, 2021 PFD are adopted in full and made part of this Final Decision. The Conclusions of Law set forth in the January 7, 2021 PFD are also adopted in full (subject to the clarification made in footnote no. 1), made a part of this Final Decision, and restated herein as follows:

1. The Insurance Code requires the Director to determine that an applicant for an adjuster license "intends in good faith to act as an adjuster, possesses a good business reputation, and possesses good moral character to act as an adjuster" before license issuance. MCL 500.1224(3).

2. The Petitioner has not met his burden to show that he has met the minimum licensing requirements of Section 1224(3) of the Code, MCL 500.1224(3). His employment and conviction history, his child support arrearage, as well as his conduct evidenced by testimony at the hearing, demonstrate a pattern of disregard for the law and a lack of trustworthiness and good moral character that have not been rehabilitated to the extent necessary to become a licensed adjuster in the state of Michigan.

3. The preponderance of the evidence establishes that Petitioner lacks good moral character within the meaning of MCL 338.41(1).¹

III. ORDER

Therefore, it is ORDERED that:

1. The PFD is adopted and made part of this Final Decision.

¹ In the PFD, Judge Halick erroneously referred to MCL 333.41(1) as the statutory provision containing the definition of "good moral character." The definition is located at MCL 338.41(1), which has been corrected herein.

2. Petitioner's appeal of Respondent's Notice of License Denial is dismissed with prejudice.

A handwritten signature in black ink, appearing to read 'RS Gregg', positioned above a horizontal line.

Randall S. Gregg
Senior Deputy Director

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

**John Thomas Yeska, Jr.,
Petitioner**

v

**Department of Insurance and Financial
Services,
Respondent**

Docket No.: 20-002285

Case No.: 20-1049-L

**Agency: Department of
Insurance and
Financial Services**

Case Type: DIFS-Insurance

Filing Type: Appeal / License Denial

**Issued and entered
this 7th day of January 2021
by: Thomas A. Halick
Administrative Law Judge**

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

On May 22, 2019, Respondent, Department of Insurance and Financial Services (DIFS/Respondent) issued a Notice of License Denial.

On January 27, 2020, DIFS issued an Agency Response to Applicant's Appeal of License Denial; and, an Order Referring Petition for Hearing.

Respondent asserts that Petitioner, John Thomas Yeska, does not meet criteria for licensure as an insurance adjuster under the Michigan Insurance Code of 1956, as amended, (Code) MCL 500.100 *et seq.* Petitioner requested a hearing to appeal the denial.

On January 29, 2020, a Notice of Hearing was issued scheduling a formal administrative hearing for March 11, 2020. The initial hearing was converted to a prehearing conference. After several adjournments, the case was scheduled for a hearing by teleconference on September 15, 2020. The record remained open until October 9, 2020, to permit the filing of closing briefs. The record closed on that date.

Attorneys Conrad Tatnall and Gary Grant appeared for DIFS.

Attorney Brian P. Morley, Frasier Trebilcock, appeared for Petitioner.

Petitioner Witnesses

John Thomas Yeska

Nathanael Cropsey, LLPC

[REDACTED]

[REDACTED]

[REDACTED]

Respondent Witnesses

[REDACTED] Riddering

EXHIBITS

Petitioner exhibits:

Exhibit 1¹ Not offered²

Exhibit 2 Michigan Child Support payment document.

EXHIBITS

Respondent offered the following exhibits, which were admitted without objection:

Exhibit 1 1033 Waiver Application

Exhibit 2 Individual License Application

¹ Petitioner's exhibits are identified by number, consistent with Petitioner's Exhibit List.

² Petitioner's Exhibit List identifies Exhibit 1 as "Any and all materials previously submitted by or on behalf of Petitioner." All such materials are included with **Respondent's Exhibit 2 - Individual License Application**, which includes: Carla Perkins, Letter dated June 21, 2018; Teresa Alexander, Letter dated June 21, 2018; Linnis Perkins, Letter dated June 21, 2018.

- Exhibit 3** Petition for Contested Case Hearing – with statements and attachments
- Exhibit 4** Licensing Denial Memo, March 22, 2019
- Exhibit 5** Notice of Licensing Denial
- Exhibit 6** Gross Indecency Conviction record
- Exhibit 7** Plea Transcript - felony
- Exhibit 8** Assault and Battery conviction record
- Exhibit 9** Plea Transcript – assault and battery
- Exhibit 10** Psychological Evaluation

ISSUES AND APPLICABLE LAW

The issue is whether denial of Petitioner’s application for licensure is appropriate pursuant to Code Sections 1224(3) and 1200; MCL 338.41(1), which in pertinent part, state:

Sec. 1224(3).

(3) After examination, investigation, and interrogatories, the commissioner shall issue a license to act as an adjuster to an applicant if the commissioner determines that the applicant possesses reasonable understanding of the provisions, terms, and conditions of the insurance with which the applicant will deal, possesses reasonable understanding of the insurance laws of this state, intends in good faith to act as an adjuster, possesses a good business reputation, and possesses good moral character to act as an adjuster. Persons currently licensed and new licenses issued are subject to any additional restrictions under which a resident of this state would be licensed in the jurisdiction in which the applicant resides. Any such restriction shall be imposed by the commissioner upon the date set for payment of the license fee. The commissioner shall not issue a new license or accept an annual license fee continuing a current license to either of the following:

Sec. 1200.

As used in this chapter, "good moral character" means good moral character as defined and determined under Act No. 381 of the Public Acts of 1974, as amended, being sections 338.41 to 338.47 of the Michigan Compiled Laws.

MCL 338.41(1)

The phrase "good moral character", or words of similar import, when used as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in the Michigan Compiled Laws or administrative rules promulgated under those laws shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.

FINDINGS OF FACT

1. On June 28, 2018, Petitioner submitted an application to become licensed as an insurance adjuster in the State of Michigan.
2. On May 22, 2019, Petitioner's application was denied.
3. On November 2, 2010, Petitioner was convicted of gross indecency between male and female – committing/procuring, in the 18th Judicial Circuit Court, Bay City, Michigan, Case No. [REDACTED].
4. Petitioner was sentenced to 270 days in jail for the crime of gross indecency between a male and female, a felony punishable by a maximum of five years imprisonment.
5. On October 10, 2016, Petitioner was convicted of assault and battery, HOA Second Offense, in the 10th Judicial Circuit Court, Saginaw, Michigan, in Case No. [REDACTED].
6. Mr. Yeska admitted on cross examination that he violated the harassment policy of his employer, Boysville of Michigan, Inc., on or about April 1, 1992, and was subsequently terminated. Mr. Yeska, gave details of three separate instances of his harassment of female co-workers.

7. Mr. Yeska admitted that as an officer with the Saginaw County Sherriff's Department, he resigned while he was under investigation by his department for inappropriately touching or fondling a woman in his patrol car, and claimed that he did not want to work for a department that did not support him.
8. Petitioner's character witness, Ms. Perkins, testified that Mr. Yeska admitted to her that while on duty as a deputy with the Saginaw County Sheriff's Department, he fondled a female in his patrol car in a park.
9. With regard to the November 2, 2010, conviction for felony gross indecency, Petitioner admitted the following: he did not ask his victim to have sex, he should have stopped the sex, and he gave one of his victims a false name. He agreed with the judge during his felony plea hearing that the police report would be used as the factual basis for his plea. Based on the police report, the Judge found that Mr. Yeska forced his way into the victim's house, forced anal sex on her, and committed an act of gross indecency. When asked during cross examination whether he takes responsibility for the conduct that led to his felony gross indecency conviction, Mr. Yeska replied that he regrets picking his victim up.
10. A felony complaint dated January 22, 2016, names Mr. Yeska as the defendant charged with Criminal Sexual Conduct contrary to MCL 750.520e(1)(b) [using force or coercion to accomplish sexual contact].
11. With regard to the October 10, 2016, misdemeanor assault and battery conviction, Petitioner admitted that he gave one victim a false name and another false personal information. When asked what he did wrong to commit the crime of assault and battery, he stated that he should have never put himself in that place with someone he had never met before.
12. Mr. Yeska, while still licensed as a Michigan insurance producer, failed to disclose his 2010 felony conviction to the Department of Insurance and Financial Services (DIFS), as required pursuant to the Michigan Insurance Code of 1956 (Code). Ms. Riddering provided testimony confirming this violation. She also testified that Mr. Yeska currently has a Michigan child support arrearage, and he failed to provide a copy of a current Michigan child support order with his Petition for Appeal of Licensing Denial. Instead Mr. Yeska merely provided a printout of his monthly payments. [Petitioner's Exhibit 1 [Identified on the record as Pet. Exh. A].
13. Mr. Yeska presented a psychological evaluation report, dated January 30, 2020, which included the following, "However, attention should be paid to the possibility of denial of problems with drinking or drug use, as the respondent described

certain personality characteristics that are often associated with involvement with alcohol or drugs.” [Resp. Exh. 10].

14. The psychological evaluation report contains the following:

- i. “With respect to positive impression management, the client’s pattern of responses suggest that he tends to present himself in a consistently favorable light, and as being relatively free of common shortcomings to which most individuals will admit. He appears reluctant to acknowledge personal limitations and will tend to repress or deny distress or other internal consequences that might arise from such limitations. This tendency will likely lead him to minimize, or perhaps even be unaware of, problems or other areas where functioning might be less than optimal. Given these apparent tendencies, **the interpretive hypotheses in this report should be reviewed with caution.** The clinical profile may underrepresent the extent and degree of any significant findings in certain areas due to the client’s reluctance to acknowledge personal problems or failings.” [Resp. Exh. 10 – Emphasis added].

CONCLUSIONS OF LAW

Petitioner has not met his burden to show that he has met the minimum licensing requirements of Section 1224(3) of the Code, MCL 500.1224(3). His employment and conviction history, as well as his conduct evidenced by testimony at the hearing, demonstrate a pattern of disregard for the law and that he currently lacks trustworthiness and good moral character. The pattern of conduct shown by Mr. Yeska’s assaultive criminal history, the most recent having concluded in 2018, demonstrates that he is not trustworthy and should not be given a license. Furthermore, the lack of candor and lack of responsibility demonstrated in his application statements, his ongoing child support arrearage, and the testimony that he provided at the hearing further show that his good moral character has not been rehabilitated to the extent necessary to become a licensed adjuster in the state of Michigan.

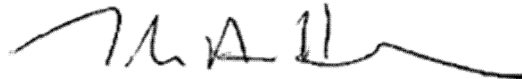
Mr. Yeska was discharged from probation on May 3, 2018, and applied for licensure on June 28, 2018.

Mr. Yeska has counseled with Nathanael Cropsey, LLCP, who testified at the hearing, that his professional opinion is based on Mr. Yeska’s self-reported facts, and that he conducted no third-party investigation or interviews.

Petitioner has failed to prove by a preponderance of the evidence that he has the good moral character required for licensure as an insurance adjuster. There is substantial evidence to the contrary, which preponderates in favor of a conclusion that he lacks good moral character within the meaning of MCL 333.41(1). Therefore, pursuant to Code Section 1224(3), Respondent's Notice of License Denial should be **AFFIRMED**.

PROPOSED DECISION

The undersigned Administrative Law Judge recommends that the department director issue a final decision consistent with the above Findings of Fact and Conclusions of Law.



Thomas A. Halick
Administrative Law Judge

EXCEPTIONS

Any Exceptions to this Proposal for Decision should be filed in writing within twenty-one (21) days of the issuance of this Proposal for Decision. An opposing party may file a response within fourteen (14) days after Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the Department of Insurance and Financial Services, Division of Insurance, Attention: Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909, and served on all parties to the proceeding.