

STATE OF OHIO
DEPARTMENT OF INSURANCE
50 WEST TOWN STREET
3RD FLOOR, SUITE 300
COLUMBUS, OHIO 43215

In the Matter of:	:	JUDITH L. FRENCH
REQUEST FOR MODIFICATION OF	:	Superintendent/Director
THE REVOCATION OF THE	:	
INSURANCE AGENT LICENSE OF	:	
ANDREW SELVA	:	
NPN: 358876	:	

FINAL ORDER

After considering the Hearing Officer's written Report and Recommendation, the transcript of testimony, and evidence, and in accordance with Ohio Revised Code ("R.C.") 119.09 and 3905.15, the Ohio Department of Insurance ("Department"), by and through its Superintendent, confirms and approves the recommendation of the Hearing Officer to deny Andrew Selva ("Selva") a modification of his March 17, 2006, administrative action, from which his insurance license was revoked.

Selva was previously licensed by the Department as a resident insurance agent in the State of Ohio. On March 17, 2006, the Department took administrative action and revoked his insurance agent license.

On January 24, 2024, Selva requested a modification of the administrative action in which the Department revoked his insurance license. In accordance with R.C. 3905.15(A), a hearing to determine whether to modify the administrative action was held on April 2, 2024. Selva was not represented by counsel. The Department was represented by Assistant Attorney General Christie Limbert.

1. In accordance with R.C. 3905.15(B), in order for the Superintendent to consider modifying the administrative action, Selva must prove, by a preponderance of the evidence, each of the following:

- (1) At least five years have elapsed since the date of the administrative action;
- (2) He is of good business repute and is suitable to be an insurance agent;
- (3) He has made restitution for all pecuniary losses suffered by any person as a result of the conduct that gave rise to the administrative action;
- (4) He has not been convicted of any felony or any misdemeanor described in R.C. 3905.14(B)(7), unless the conviction was the subject of a previous administrative action by the Superintendent;
- (5) The circumstances surrounding his previous violation are such that it is unlikely he would commit such offense in the future; and that
- (6) His character has been rehabilitated.

If the Superintendent finds that Selva proved each of the six requirements, the Superintendent then has the discretion to modify the administrative action.

2. The burden of proof rested solely with Selva to prove, by a preponderance of evidence, all of the requirements of R.C. 3905.15(B).

3. Selva provided testimonial and documentary evidence at the hearing.

4. The Hearing Officer concluded that Selva failed to demonstrate elements 2, 5, and 6, as required by R.C. 3905.15.

The Superintendent has considered the objections timely filed with the Department. The Superintendent does not find that the objections are with merit and confirms and approves the findings of facts and conclusions of law of the Hearing Officer contained in the attached Report and Recommendation, which is incorporated into this Final Order by reference. The Hearing Officer recommended the modification be denied. The Superintendent confirms and approves the recommendation.

NOW, THEREFORE, IT IS ORDERED:

For the reasons stated above, Selva's request to modify the March 17, 2006, administrative action is DENIED.

This Order is effective immediately and is entered into the Journal of the Ohio Department of Insurance.

Signed this 25th day of June, 2024, in Columbus, Ohio.


JUDITH L. FRENCH
Superintendent/Director

NOTICE OF APPELLATE RIGHTS

This Final Order may be appealed by filing a Notice of Appeal with the Ohio Department of Insurance ("Department"), Attn: Hearing Program Administrator, 50 West Town St., Suite 300, Columbus, Ohio 43215, setting forth the order appealed from and stating that the Department's Final Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal may, but need not, set forth the specific grounds of the appeal beyond the statement that the Department's Final Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal shall also be filed by the party desiring the appeal with the appropriate court of common pleas. Such Notices of Appeal shall be filed within fifteen (15) days of your receipt of the Department's Final Order as provided in R.C. 119.12. In filing a Notice of Appeal with the Department or court, the notice that is filed may be either the original notice or a copy of the original notice.

**STATE OF OHIO
DEPARTMENT OF INSURANCE**

In Re:	:	Case No. LGL-202401-035
	:	
REQUEST FOR MODIFICATION	:	Michelle L. Riske-Morris, Esq.
ANDREW SELVA	:	
NPN: 358876	:	Hearing Officer

**ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued April 30, 2024**

I. FINDINGS OF FACT

A. Background

This matter came before Michelle Riske-Morris, an attorney licensed to practice law in Ohio, and serving as a Hearing Officer for the Ohio Department of Insurance (“ODI”) for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code (“ORC”) Chapter 119. The Hearing was held on Tuesday, April 2, 2024 remotely via Microsoft Teams. The purpose of the hearing was in regards to the Respondent, Andrew Selva’s, request for modification of an administrative action regarding the revocation of his license as an insurance agent within the state of Ohio pursuant Ohio Revised Code Section 3905.15.

The hearing was held pursuant to a Notice of Formal Hearing issued on January 30, 2024 by the ODI. Per Ohio Revised Code Section 3905.15 upon written application of a person “whose license was denied, suspended, revoked, or surrendered for cause under section 3905.14 of the Revised Code, except for a person whose license was denied for a disqualifying offense pursuant to section 9.79 of the Revised Code, the superintendent of insurance shall hold a hearing to determine whether the administrative action imposing the denial, suspension, revocation, or surrender should be modified” (Ohio Revised Code Section 3905.15).

Christie Limbert, a Senior Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General’s Office, represented ODI. Mr. Selva was present and not represented by counsel. The Respondent acknowledged on the record that he had a right to legal

representation at the hearing but chose to represent himself. Charles Bill Carter, a Staff Attorney with the Ohio Department of Insurance, appeared on behalf of ODI.

HEARING EXAMINER NOTE: all references to Exhibits shall be by the name of the party tendering the Exhibit and by the Bates Number of each page as stamped in the lower right-hand corner if provided otherwise page references will be listed consecutively. State's Exhibits 1 thru 5 were introduced and admitted into the record, copies of which are attached and fully incorporated herein. Redactions were made to some of the State's exhibits to exclude personal information such as date of birth and social security information. Mr. Selva's Exhibit A was introduced and admitted into the record, a copy of which is attached and fully incorporated herein. The hearing was recorded by Valerie Grubaugh, Court Reporter for Armstrong and Okey, Inc.

B. Jurisdiction and Procedural Matters

1. On January 24, 2024, Mr. Selva filed with ODI a request for a modification of his license, NPN #358876 (State's Exhibit 1, pgs. 1-2).
2. On January 30, 2024, The Notice of Formal Hearing was sent to Mr. Selva and the hearing was scheduled for April 2, 2024 @ 1:30 p.m. remotely via Microsoft Teams (State's Exhibit 2, pgs. 1-4).

C. Respondent's Activities

1. Mr. Selva previously held a resident insurance agent license in the State of Ohio.
2. On or about March 17, 2006 a Consent Order was issued by ODI wherein Mr. Selva and the ODI, in lieu of further proceedings and to resolve a matter pending with ODI, agreed that Mr. Selva had violated ORC Section 3905.14(B)(6) and as such Mr. Selva would permanently surrender for cause his Ohio insurance agent license, effective upon the date of execution of said Consent Order (State's Exhibit 4, pgs. 1-2).
3. The basis for said action was due to Mr. Selva's criminal conviction for two counts of sexual battery involving minors, violations of ORC Section 2907.03, a third-degree felony, in the Court of Common Pleas, Franklin County, Ohio on December 13, 2005 (State's Exhibit 3, pgs. 11-9). On or about December 16, 2010 Mr. Selva was discharged from probation (State's Exhibit 3, pg. 12).
4. On or about July 5, 2017 Mr. Selva requested a modification of said Administrative Action. An administrative hearing was held on October 18, 2017. Pursuant to an Administrative Order issued January 3, 2018, the Superintendent for ODI found that Mr. Selva had not meet his burden by a preponderance of evidence regarding the elements set

forth in ORC 3905.15(B) which is required in order for the Superintendent to consider the request for modification of the prior administrative action surrendering his insurance agent license. Mr. Selva's modification was therefore denied (State's Exhibit 5, pgs. 1-4).

II. CONCLUSIONS OF LAW

A. Jurisdiction

1. ODI has procedurally complied with Ohio Revised Code Chapter 119 and jurisdiction over this matter has been established.

B. Compliance with Laws

1. ODI is the state agency responsible for the licensing and regulation of insurance agents pursuant to Ohio Revised Code Title 39.
2. Ohio Revised Code 3905.15(A) requires that, upon written application by a person whose license was revoked for cause, the Superintendent of ODI shall hold a hearing provided the following conditions are met:
 - a. At least five years have elapsed since the date of the administrative action sought to be modified;
 - b. Two years have elapsed since any previous request for a modification; and
 - c. The burden of proof is on the person requesting the modification (Ohio Rev Code Section 3905.15(A)).
3. The administrative action revoking Mr. Selva's license occurred in 2006 and the previous request for modification by Mr. Selva occurred in 2017, therefore the current request for a modification is within the purview of the Superintendent.
4. In order to modify an order issued pursuant to Ohio Revised Code Section 3905.15(B), the Superintendent must find all of the following:
 - a. At least five years have elapsed since the date of the administrative action;
 - b. The person is of good business repute and is suitable to be an insurance agent;
 - c. The person has made restitution for all pecuniary losses suffered by any person as a result of the conduct that gave rise to the administrative action;
 - d. The person has not been convicted of any felony or of any misdemeanor described in division (B)(7) of section 3905.14 of the Revised Code unless the conviction was the subject of a previous administrative action by the superintendent;
 - e. The circumstances surrounding the previous violation are such that it is unlikely the person would commit such offenses in the future; and

- f. The person's character has been rehabilitated (Ohio Rev Code Section 3905.15(B)).
5. As stated previously, more than five years have elapsed since the administrative action revoking Mr. Selva's license.
6. Mr. Selva testified that he did not receive any customer complaints during his insurance career for the time period of 1989 to 2006. After his conviction Mr. Selva testified that he worked at Domino's and Dunkin Donuts. Then in 2009 he could not find a job because of his conviction and opened his own business (Recorded testimony of Mr. Selva, Transcript 20:2-9). Mr. Selva testified that he started a restaurant in Centerville, Ohio and passed it on to his son in 2022 due to his retirement. Mr. Selva indicated that he retired due to his health and age (Respondent's Exhibit A and recorded testimony of Mr. Selva, Transcript 12:9-13). Mr. Selva testified he also had a second restaurant which he sold to another individual (Recorded testimony of Mr. Selva, Transcript 20:13-16).
7. Mr. Selva further testified that the reason he would like his insurance license reinstated is in order to supplement his income. He has had two heart attacks making his current line of work difficult which is why his son took over the business (Recorded testimony of Mr. Selva, Transcript 20:17-25).
8. Mr. Selva testified that he paid all court costs and/or restitution arising from his criminal conviction (Recorded testimony of Mr. Selva, Transcript 19:17-19) and no evidence was presented by ODI to suggest otherwise.
9. Mr. Selva testified that he has not been convicted of any felony or any misdemeanor and no evidence was presented by ODI to suggest otherwise (Recorded testimony of Mr. Selva, Transcript 23:5-7).
10. During the hearing Mr. Selva testified that he was not willing to answer any questions regarding his conviction (Recorded testimony of Mr. Selva, Transcript 12:2-5), only that he understands the gravity of the offense and takes full responsibility (Recorded testimony of Mr. Selva, Transcript 11:19-21). Mr. Selva also made a statement that he has rehabilitated his life and continues to demonstrate his ability to be a good citizen (Recorded testimony of Mr. Selva, Transcript 12:6-8). No other evidence was introduced to demonstrate that it is unlikely that Mr. Selva would commit such offenses in the future or that his character has been rehabilitated.
11. It is important to note that the burden of proof lies with the Respondent. The Respondent must show compliance with all six elements (Ohio Revised Code Section 3905.15) by a preponderance of the evidence. This Hearing Officer finds that the Respondent, Andrew Selva, has met not his burden of proof. Specifically, he has not met three of the elements set forth by Ohio Revised Code 3905.15(B) as required in order to grant the Superintendent with the authority to modify the previous order revoking his insurance

license. Full compliance is necessary with respect to all six conditions. Mr. Selva has shown that it has been 18 years since his conviction, he has not been convicted of any crimes since then, and he has paid restitution. For the other three elements, Mr. Selva only provided statements that he has met the condition, but nothing to demonstrate how. Mr. Selva provided testimony that he has operated a business since 2009 but nothing more regarding the operation of said business to establish that he is a person of good business repute. Mr. Selva would not provide any testimony regarding his conviction, nor was there any testimony whether the circumstances surrounding the previous violation are such that it is unlikely he would commit such offenses in the future. Mr. Selva was convicted of sexual battery involving two minors, very serious offenses. While Mr. Selva stated that he has rehabilitated his life, nothing more was provided to demonstrate that his character was rehabilitated. Mere statements alone are insufficient to meet his burden. Mr. Selva has a burden to provide evidence so that compliance with the requirements for reinstatement can be appropriately evaluated.

RECOMMENDATION

In Case LGL 202401-035, In the Matter of Andrew Selva, based upon the evidence and testimony submitted into the record, it is the Hearing Officer's finding and recommendation that Mr. Selva has not met his burden showing compliance with the requirements of Ohio Revised Code Section 3905.15 (B)(1-6) and therefore is not entitled to have his insurance license reinstated.

Dated: April 30, 2024

/s/Michelle Riske-Morris
Michelle L. Riske-Morris, Esq. (0059392)
Hearing Officer