

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX: AT KINGSHILL

AUGUSTIN A. DOWARD)

PLAINTIFF:)

VS.)

GOVERNMENT OF THE V.I., OFFICE)
OF THE INSURANCE COMMISSIONER,)
COMMISSIONER JULIO BRADY AND)
ASTRID ENGLAND.)

DEFENDANTS:)

CIVIL NO. 1186/1985

ACTION FOR: TEMPORARY
RESTRAINING ORDER,
PRELIMINARY INJUNCTION,
PERMANENT INJUNCTION AND
MANDAMUS

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SILVERLIGHT, J.

MEMORANDUM OPINION
MARCH 24, 1986

THIS MATTER comes before the Court after a hearing on the joint motion of the parties for summary judgment. For the reasons set forth below, summary judgment shall be granted in favor of the plaintiff.

F A C T S

Plaintiff, Augustin Doward, filed the instant suit seeking an order to permanently restrain defendants, the

Government of the Virgin Islands, Office of the Insurance Commissioner, Commissioner Julio Brady and Astrid England, from refusing to issue apprentice agent licenses to persons who apply for the same and for whom the plaintiff signs as the requesting agent.

Plaintiff alleges that over the past nine (9) years, the defendants have prevented him from signing as the requesting agent for apprentice agents, in violation of 22 V.I.C. § 788.

The parties have stipulated to the following facts:

1. Plaintiff is duly licensed and employed as an insurance agent and broker;
2. Prior to January 28, 1985, the plaintiff signed apprentice license applications for four persons, to wit: Floyd Henderson, Amonteen Doward, Clarence Heyliger and Hyacinth Fabio;
3. On January 28, 1986, defendants rejected the applications and returned the same to the plaintiff stating that he was not authorized by the company which he represented to employ sub-agents and/or apprentices; (plaintiff's Exhibit "1");
4. The four applicants complied with the provisions of the applicable law and were qualified to be issued apprentices licenses;
5. Plaintiff's Exhibit 1 through 5, are admitted into evidence; and
6. Plaintiff has incurred costs, including attorney's fees in the amount of TWENTY-FIVE HUNDRED DOLLARS (\$2,500.00), which are to be awarded to plaintiff if he prevails, pursuant to 5 V.I.C. 541.

D I S C U S S I O N

Rule 56 of the Federal Rules of Civil Procedure provides that summary judgment shall be granted if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

In this instance, the parties have stipulated to all the material facts. The question before the court is whether the issuance of apprentice agent licenses is governed by 22 V.I.C. § 753 or 22 V.I.C. § 788.

This Court rejects, without further discussion, defendant's assertion (as evidenced by plaintiff's Exhibits 1 and 5) that the issuance of an apprentice license is governed by 22 V.I.C. § 753. ^{1/} We find, and so hold, that 22 V.I.C. § 788 provides the sole statutory basis upon which an apprentice license may be granted or denied.

In pertinent part, 22 V.I.C. § 788 states:

^{1/} 22 V.I.C. § 753, provides in pertinent part:

- (a) Any corporation, firm or individual having a place of business in the Virgin Islands, may be licensed by the commissioner as agent to solicit, accept applications...deliver or place policies or contracts of direct insurance upon

- (a) The commissioner shall issue apprentice agent's or solicitor's licenses only to persons who have never sold insurance before and who have never been connected with any insurance company in any position, provided they meet the following qualifications:
- (1) Are a resident of the Virgin Islands;
 - (2) Are to represent and be employed by but one licensed agent or broker; and
 - (3) Are otherwise qualified under this title.

(emphasis added).

In the instant case, the parties have stipulated that the four applicants who were denied licenses met all the statutory requirements of 22 V.I.C § 788.

Section 788 provides further:

- (b) Such licenses shall be issued upon application by the applicant and at the request of the agent or broker to be represented in such manner as the commissioner shall prescribe. The fee for said license shall be paid by the agent, or broker employing such applicants....

(emphasis added).

1/ continued...

risks located within the Virgin Islands for an insurer authorized to transact business therein...

- (b) Where an agent of an insurer is authorized to employ agents or subagents

In the case at bar, the plaintiff is duly licensed as an insurance broker and agent. Hence, since the applicants and the plaintiff met all the statutory requirements of 22 V.I.C. § 788, but the applicants were denied apprentice licenses, this Court finds that the defendants erred, as a matter of law, in denying said applications.

Accordingly, the Court shall issue an order permanently enjoining and restraining the defendants, their agents and employees, from refusing to permit the plaintiff (while he is a duly licensed insurance agent or broker), to be the requesting agent for applicants of apprentice agent licenses. Furthermore, defendants, their agents and employees shall be permanently enjoined and restrained from refusing to issue such licenses if said applications are in compliance with 22 V.I.C. § 788.

Moreover, in accordance with the stipulation of the parties, plaintiff shall be awarded the sum of TWENTY- FIVE HUNDRED DOLLARS (\$2,500.00) as and for his costs, including attorney's fees.

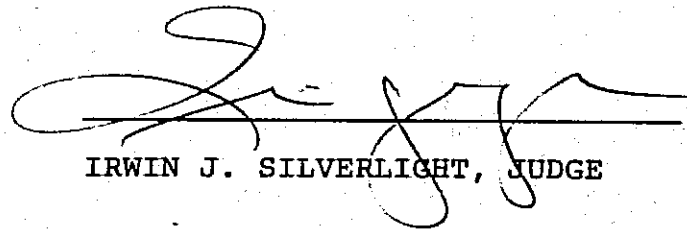
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to transact business on behalf of the insurer, the application for such agent's or subagent's license may be filed with the commissioner by the authorized agent provided that a certified copy of the instrument creating such agency, including the authorization to employ such agents or subagents is filed with the commissioner.

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Done at Kingshill, St. Croix, Virgin Islands, this ^{24th} day
of March 1986.

ENTER:



IRWIN J. SILVERLIGHT, JUDGE

1/ continued.....

There is no provision of § 753 for the licensing of
apprentice agents.