

.IN THE COURT OF COMMON PLEAS, UNION COUNTY, OHIO

BRIAN A. FAIR,

Plaintiff,

Case No. 17-CV-0185

Judge David C. Faulkner

vs.

OHIO DEPT. OF JOB AND FAMILY SERVICES, ET AL.,

Defendants.

COURT OF COMMON PLEAS UNION COUNTY, OHIO  
2017 NOV 27 AM 10:30  
Steven R. Thomas  
CLERK

**OPINION AND FINDINGS**

The facts of this case are not in dispute. Appellant Brian A. Fair was employed by McCarthy & Cox Retirement Estate Specialists, LLC from January 9, 2017 until May 5, 2017. His employment was conditioned on his taking and passing an examination to become a Series 7 securities broker. In order for him to take the examination, sponsorship by Commonwealth Financial Network, the broker dealer of McCarthy & Cox, was necessary.

Because of matters contained in Fair’s prior record with the Financial Industry Regulatory Authority, Commonwealth declined to sponsor him. He was, therefore, not permitted to take the examination. Since that had initially been a condition of his continued employment, McCarthy & Cox terminated that employment.

Fair’s position is that he was ready, willing and able to take the examination but for the fact that Commonwealth chose not to sponsor him. He claims that the decision below was unfair, unlawful, unreasonable and against the manifest weight of the evidence.

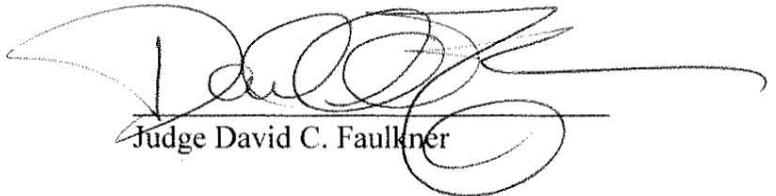
This Court sits as a reviewing body and not as a trier of fact in this matter. The Court must take the record as it stands and from that record determine whether the Commission’s decision is unlawful, unreasonable or against the manifest weight of the evidence. The Court

therefore must determine whether the existing law and the facts of this case support the determination that Fair's employment was terminated with just cause.

Fair's employment was initially conditioned on his taking and passing the examination. That expectation did not change. This required the sponsorship of the broker. The record does not show that the broker acted unreasonably, arbitrarily or that its action was other than a sound business decision in the financial industry. The Court finds no necessity for the oral hearing scheduled for December 13, 2017.

The determination below is supported by the evidence and is neither unreasonable nor unlawful.

The determination of the Review Commission will be affirmed. Counsel for Appellee will prepare and submit an entry in conformity to the foregoing findings.



Judge David C. Faulkner

Copy to:

Gary A. Reeve, Esq.  
Alan Schwepe, Esq.