

AUG 31 2022

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	
APPLICATION OF LICENSE FOR JOSEPH)	FINDINGS OF FACT, CONCLUSIONS
RAVEN)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-2299
)	
)	
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This matter came on for hearing on the 9th day of August, 2022, before Megan VanAusdall, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) was represented by its attorney, Michael Anderson. Joseph Raven (“Applicant”) was present and was not represented by an attorney. The proceedings were tape recorded by Shelly Storie, a licensed Notary Public. Evidence was received, testimony was adduced, and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. On or about August 18, 2000, Applicant was sentenced by the Douglas County District Court of Nebraska, to two to four years imprisonment for a conviction of one count of Burglary, a class 3 felony, in violation of Neb. Rev. Stat. 28-507, as well as one count of Attempt of a Third Class Felony, a Class 4 felony, in violation of Neb. Rev. Stat. 28-201(4)(D). (Ex. 5, Attachment 1)

3. On or about June 3, 2002, Applicant was convicted by Nebraska's Otoe County District Court of Attempt of a Third Class Felony, a Class 4 felony, in violation of Neb. Rev. Stat. 28-201(4)(D). Subsequently, Applicant was sentenced to a period of one to two years in the Nebraska Department of Correctional Services. (Ex. 5, Attachment 1)

4. On or about September 10, 2002, Applicant was convicted by the Lancaster County District Court of Nebraska of Operating a Motor Vehicle to Avoid Arrest, a class 4 felony, in violation of Neb. Rev. Stat. 28-905(3)(a). Subsequently, Applicant was sentenced to a period of one to two years in the Nebraska Department of Correctional Services. (Ex. 5, Attachment 1)

5. On June 27, 2022, Applicant applied for a Nebraska resident producer's license. Applicant disclosed his criminal convictions on his application. (Ex. 5, Attachment 1)

7. On July 11, 2022, the Department denied Applicant's application for licensure due to Applicant's felony criminal conviction, as provided by Neb. Rev. Stat. §44-4059(1)(f). (Ex. 5, Attachment 2)

8. On July 11, 2022, Applicant submitted a timely request for appeal, via email. (Ex. 5, Attachment 3)

9. Applicant testified at the administrative hearing, explaining the circumstances of his criminal convictions. Applicant stated he broke into a gas station (while the station was closed) by breaking a window, then used his access to steal money from the cash register and cigarettes. Applicant listed two occasions of such burglary, testifying that on both occasions, no victims were present at the time the offense was committed. These events formed the basis for his first felony conviction, for one count of burglary, a Class 3 felony and one (amended) count of Attempt of a Class 3 felony, a Class 4 felony.

Upon his first criminal convictions, Applicant stated that he was offered supervised probation by the prosecuting attorney, but opted for prison time instead, out of a sense of taking responsibility for his choices. At the time of his first convictions, Applicant was eighteen years of age.

Applicant testified that the prison time resulting from his first felony convictions was the opposite of reformatory. Applicant stated the time he spent in prison introduced him to other individuals involved in the criminal lifestyle, and when he was paroled, these associations continued, leading to the second, and third felony conviction recorded above.

Applicant included in the explanation he attached to his application form the following statement:

“I was a very confused child with a bad background when I had a child. I decided right then I didn’t want to be a statistic. I got married raised my daughter and became a family man [sic]. I have worked in the car industry for 15 years and would love to be considered for my insurance license. I have gone 20 years now being a citizen and I’m no longer that immature child.” (Ex 5, Attachment 1)

In the time since his release from the Department of Corrections, Applicant testified he has made a complete change in his life.

Applicant stated that he found steady employment with an automobile dealer as a sales consultant at Huber Chevrolet/Cadillac, a job that held for two years, until his recent employment with Applied Underwriters. (Applicant’s testimony at License Denial Hearing; Ex 1, Ex 4)

Included with Applicant’s Application were five letters of recommendation, one from his former manager at the automotive dealership, three from co-workers, and all the letter writers speaking highly of Applicant as a conscientious, intelligent, hard-working person. (Ex 1, 2, 3, 4, 5)

Applicant went on to testify that he is currently employed by Applied Underwriters, a risk

management company with offices in Omaha, Nebraska. Among Applicant's letters of recommendation, the final letter was written by the Director of Business Development for Applied Underwriters. The following passage is excerpted from that letter:

“Joe was upfront with Applied during his recruitment regarding his past involvement with the law. Joe participated in a multi-step recruitment and testing process that included a final interview with myself and another Applied Underwriters management team member.

As part of our training for new employees, Joe underwent a five-week training course that included product knowledge, selling strategies, and preparation for his P&C licensing. Joe impressed with every step of this process and has exceeded our early expectations.

It's clear that Joe has spent countless hours reflecting on his past. He has taken the necessary time and effort to truly understand the challenges he has faced nearly two decades prior. Joe has moved on from those challenges long ago, and is now dedicated to his personal growth and building a bright future for his family. Joe has been an upstanding citizen since being employed and I am excited for what the future holds for Mr. Raven.”

Applicant's continued employment with Applied Underwriters is contingent on his receipt of an insurance license, a condition Applicant also disclosed at hearing. (Applicant's testimony at License Denial Hearing; Ex 5)

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control, and discretion over the licensing of insurance producers in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 to 40-4069.
2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. §§44-4059(1)(f), the director may suspend, revoke, or refuse to issue or renew an insurance producer's license for the conviction of a felony.

4. If the director does not renew or denies an application for a license, the director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the director within thirty days for a hearing before the director to determine the reasonableness of the director's action. The hearing shall be held within thirty days and shall be held pursuant to the Administrative Procedure Act, pursuant to Neb. Rev. Stat. §40-4059(2).

DISCUSSION

Applicant's criminal conviction constitutes a sufficient statutory basis to deny his application as a Nebraska resident insurance producer. However, such denial is discretionary, not mandatory. The purpose of the license denial hearing is to determine the reasonableness of the denial. In the context of a proper denial, the hearing gives an applicant the opportunity, and the burden, to show why a license should be granted.

The Applicant testified that his criminal conduct occurred due to the company he kept at the time of his convictions, as well as growing up in a household that did not present good role models. Applicant testified he has taken steps to distance himself or cut ties with these past associates. Applicant has made significant strides in building a life for himself after incarceration, and his efforts should be commended. Applicant is requesting to be provided a resident insurance producer's license, after twenty years of distancing himself from negative figures in his life and pursuing a career to support his family. Applicant's Application for licensure at this point in time can be seriously considered, despite Applicant's criminal history, because the records show that Applicant has been

successful in making a change, and demonstrate a substantial likelihood that Applicant will not re-offend, or make decisions which conflict with the ethical standards required of an insurance producer.

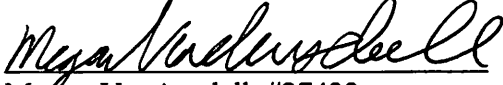
Succinctly stated, the weight of the evidence presented by the Applicant sufficiently supports a finding that the denial of the Applicant's request for license may be overturned without endangering any Nebraska citizens.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law made herein, it is recommended that the initial decision to deny Applicant's licensure request, while supported by a sufficient evidentiary basis, be OVERTURNED, and that Applicant's request for licensure as a resident insurance producer is granted.

Dated this 31 day of August, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Megan VanAusdall, #27433
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of the Denial of Application for License for Joseph Raven, Cause No. A-2299.

Dated this 31 day of August, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Eric Dunning
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Applicant by mailing a copy to him at 3121 N. 120th Ct., Apt. 303, Omaha, NE 68164, via regular U.S. mail on this 31st day of August, 2022.


Shelly Storie