

MAR 01 2023

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	FINDINGS OF FACT, CONCLUSIONS
APPLICATION FOR LICENSE FOR)	OF LAW, RECOMMENDED ORDER
ADAM SCHUTTE)	AND ORDER
)	
)	CAUSE NO. A-2313
)	

This matter came for hearing on the 14th day of February, 2023, before Michael W. Anderson, 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, Megan Vanausdall. Adam Schutte (“Applicant”) was present for the proceedings. The proceedings were 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. Applicant applied to become a resident licensed insurance producer with the State of Nebraska. Applicant’s application for said license was submitted to the Department on or about December 30, 2022. Within the Uniform Application for Individual Producer License (“Application”), Applicant answered question 1b in the affirmative indicating that he has been convicted of a felony, had a judgment withheld or deferred, or

is currently charged with committing a felony. Applicant submitted additional information informing the Department that he is currently on probation for charges of Attempted Arson, a 2nd Degree Felony, said sentence was passed on August 22, 2022, and consisted of 3 years of supervised probation. (Ex. 2, Attachment 1)

2. On or about January 6, 2023, Kevin Schlautman (“Schlautman”), licensing administrator of the Department, reviewed the application and supporting documentation. Schlautman determined to deny Applicant’s request for a license on the grounds of Neb. Rev. Stat. § 44-4059(1)(f), having been convicted of a felony or a class I, II, or III misdemeanor.” (Ex. 2, Attachment 2)

3. On or about January 6, 2023, the Department received written correspondence from Applicant, pursuant to Neb. Rev. Stat. § 44-4059(2), requesting an administrative hearing regarding the denial of his insurance producer license application. (Ex. 2, Attachment 3)

4. On or about February 1, 2023, the Department sent notice of this proceeding to the Applicant at his address, 4935 Fremont Street, Lincoln, Nebraska 68504, via certified mail, return receipt requested, regular United States mail, and to his email at schutteadam@yahoo.com. (Ex. 3)

5. On February 6, 2023, Applicant sent an email confirming his receipt of the notice of hearing. (Ex. 3, Attachment 1)

6. Applicant testified at the administrative hearing, explaining the circumstances of his criminal conviction. Applicant stated that he is currently on probation in Nebraska for the charges he pled guilty to referenced in section 2, and further

stated that the circumstances surrounding his criminal conviction were due to an at the time undiagnosed bipolar disorder. (Testimony of Applicant)

7. To support his testimony, Applicant offered a letter from his provider at the Department of Veterans Affairs offering support for his intention to obtain "Real Estate Licensure" and asserting that Applicant has been keeping scheduled appointments and medication compliance to manage Bipolar I Disorder. Applicant testified that the inclusion of "Real Estate Licensure" was simply a mistake made by the author of the letter, and that he had received the letter concerning insurance licensure that is the subject of this hearing. (Ex.1, Testimony of Applicant)

DISCUSSION

Applicant's felony conviction constitutes sufficient basis for the denial of Applicant's insurance producer license; however, such denial is discretionary, not mandatory. Pursuant to Neb. Rev. Stat. § 44-4059(2), the purpose of the license denial hearing is to determine the reasonableness of the denial. The Department has statutory authority to deny an applicant's license if the applicant has been convicted of a felony or a class I, II, or III misdemeanor pursuant to Neb. Rev. Stat. § 44-4059(1)(f). As such, the initial denial of the application was proper. In the context of a proper denial, the license denial hearing procedure gives applicants an opportunity to explain circumstances and show why a license should be granted.

The Department denied the Applicant's license because he had been convicted of Attempted Arson, 2nd Degree, a class IV felony. In this instance, Applicant appeared at the hearing and provided some context for the charges, however it is concerning that Applicant's probation has not yet concluded. Applicant also outlined the steps he had taken to address his own mental health, and Applicant's testimony to that effect has been taken into consideration. For the reasons stated above, the Department has shown that the denial of Applicant's license was proper. The Applicant has not shown that the denial was unreasonable.

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of Applicant to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 to 44-4069.
2. The Department has personal jurisdiction over Applicant.
3. The Director may deny the issuance of an insurance producer license on the basis of Applicant's having been convicted of a felony or a class I, II, or III misdemeanor pursuant to Neb. Rev. Stat. § 44-4059(1)(f).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the denial of Applicant's insurance producer license be upheld. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter.

Dated this 1st day of March 2023.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



MICHAEL W. ANDERSON
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 the Department in the matter of the Denial of Application for License for Adam Schutte, Cause No. A-2313.

Dated this 1st day of March, 2023.

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 Applicant, Adam Schutte, by mailing a copy to him at 4935 Fremont Street, Lincoln, Nebraska 68504, via certified mail, return receipt requested, by regular United States mail, and by email to schutteadam@yahoo.com on this 1st day of March, 2023.


