

JUL 24 2023

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	
APPLICATION OF LICENSE FOR)	FINDINGS OF FACT, CONCLUSIONS
RODNEY HALSTEAD)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-2329
)	
)	
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This matter came on for hearing on the 27th day of June 2023, 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. Rodney Halstead (“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 15, 2016, Applicant was named as a party in an administrative hearing involving a professional license when formal charges were filed by Counsel for Discipline of the Nebraska Supreme Court against Halstead’s law license in *State, ex. rel. Counsel for Dis. v. Halstead*. (See Exhibit 1, Attachment 1; *State, ex. rel. Counsel for Dis. v. Halstead*, 298 Neb. 149 (2017)).

The applicant was found by the court to have failed to comply with Neb. Ct. R. § 3-501.1, 3-501.3, 3-316 (rev. 2014) by authoring and filing annual guardianship reports containing false statements for a period of six years. As a result, the court entered a judgment of suspension of Applicant's law license one year and, after compliance with continuing legal education requirements, was also placed on probation by the court for one additional year. (See Exhibit 1, Attachment 1; *State, ex. rel. Counsel for Dis. v. Halstead*, 298 Neb. 149 (2017)).

3. On or about May 23rd, 2017, Applicant was named for a second time as a party in an administrative hearing involving a professional license when formal charges were filed by Counsel for Discipline of the Nebraska Supreme Court against Applicant's law license. The allegations centered around conflicts of interest with multiple clients when he entered into business relationships with them without proper protections for the clients and that he converted client funds before completing work for the client and failed to refund the unearned portion of client funds once his representation was terminated. Applicant voluntarily surrendered his license to practice law and the court entered an order of disbarment. (See Exhibit 1, Attachment 1; *State, ex. rel. Counsel for Dis. v. Halstead*, 300 Neb. 69 (2018)).

4. On or about February 23, 2018, Applicant applied for the first time for a resident producer license in this state. His first application was denied by Kevin Schlautman, in his capacity as Licensing Administrator of the Department, on March 5, 2018. (See Exhibit 1)

5. In *Nebraska State Bar Association v. Rodney A. Halstead, an individual, and Life Care Legal Counselors, Rodney A. Halstead, P.C., L.L.O., a Nebraska professional corporation*, Applicant was sued by the Nebraska Bar Association, on allegations that Applicant received or kept legal fees from clients without performing legal services, as well as that Applicant had withheld

property of clients and cut off communication concerning active cases. (*NSBA v. Halstead*, Douglas County Dist. Ct., CI 20-6852).

On December 28, 2020, the District Court of Douglas county filed an Amended Order Granting Summary Judgment against the Applicant. ¹ (See Exhibit 1, Attachment 1; *NSBA v. Halstead*, Douglas County Dist. Ct., CI 20-6852)

6. On or about June 3, 2023, the Department received a second application from Applicant, requesting licensure in the Life and Health lines of insurance. In his second application, Applicant marked “Yes,” to Background Questions 2, which asks whether the Applicant has been a party to any administrative proceedings involving discipline of a professional license, and Question 5, regarding whether an Applicant has been a party to or been found liable in any lawsuit involving allegations of fraud, misappropriation or conversion of funds, misrepresentation, or breach of fiduciary duty. Applicant also submitted a written statement and court records of all matters covered under his “Yes” answers to Questions 2 and 5, which are detailed more fully above, and will not be repeated here. (See Exhibit 1, Attachment 1)

7. On June 6, 2023, resulting from the findings of fact in Applicant’s court and administrative hearing records, submitted with the June 3, 2023 Application, the Department sent a letter, via regular and electronic mail, denying Applicant’s second application. The letter informed Applicant that any appeal to decision must be made in writing within 30 days to the Department. (See Exhibit 1, Attachment 2)

8. On June 8, 2023, Applicant submitted a timely request for appeal, via email. (See Exhibit 1, Attachment 3)

9. On or about June 8, 2023, a Petition and Notice of Hearing were served upon Respondent by sending a copy by certified mail, return receipt requested, to his registered residential,

¹ Further details regarding the money judgment found against Applicant can be found in the text of the court’s order.

business and mailing address, at 2026 W. 37th St, Kearney, NE 68845. Finally, a copy of the same documents were sent through electronic mail, to RODHAL2026@HOTMAIL.COM (See Ex. 2)

10. The Domestic Return Receipt (“Receipt”) attached to the Petition and Notice of Hearing mailed to Respondent’s registered business address was not returned to the Department as of the date of hearing. However, on June 13, 2023, a member of Department staff sent an e-mail to RODHAL2026@HOTMAIL.COM, with a digital copy of Petition and Notice of Hearing attached, and the same day received an “email delivery confirmation” notice in response, confirming delivery to that e-mail account. (See Exhibit 2, Attachment 1)

11. Applicant testified at the administrative hearing, held on June 26, 2023, explaining the circumstances leading to his disbarment² and the summary judgment won against him.³ Applicant testified that since he was disbarred, Applicant has completed a program of counseling, is an active member in his church, and is currently still seeing a “life coach” for added guidance, all factors which Applicant cited as changes he had made in order to avoid repetition of the dishonest and fraudulent business practices of Applicant’s past. Applicant also stated that he had made efforts to make amends with former clients who may have been wronged through his prior actions. (See Exhibit 1, Attachment 1; Written Statements by Applicant, and Applicant’s testimony at hearing)

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 Applicant.

3. Pursuant to Neb. Rev. Stat. §§44-4059(1)(h), the director may suspend, revoke, or refuse to issue or renew an insurance producer's license for using fraudulent, coercive, or dishonest

² Case Nos. Case No. No. S-16-477 & S-17-1030

³ *NSBA v. Halstead*, Douglas County District Court, Case No. CI 20-6852

practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

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. §44-4059(2).

DISCUSSION

Applicant's prior administrative cases leading to his disbarment, as well as the judgment filed against him on findings of fraud or dishonest business practices constitute a sufficient statutory basis to deny his application as a Nebraska resident insurance producer under Neb. Rev. Stat. §§44-4059(1)(h). 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.

First, it should be noted that the Applicant disclosed the prior administrative actions concerning his law license, as well as the judgment won against him by the Nebraska State Bar Association, when he submitted his second application to the Department on June 3, 2023.

However, the Applicant's history of financial misconduct involving client funds, as well as his admitted years of filing false reports to a court, is troubling. Applicant has certainly made significant strides in building a life for himself after the loss of his law license, and his efforts should be commended. However, while the Applicant has made significant progress, both professional and

personal, since the time of his first application to the Department, this hearing officer has lingering concerns. Given the reality, however, of Applicant's disbarment from the practice of law, as well as the substance of the lawsuit filed against him in 2020,⁴ the Applicant's past actions raise concerns to more than a sufficient level to deny this application for a license. The role of an insurance producer is, among other duties, to protect the financial interests of their client. Unfortunately, Applicant has demonstrated prior incompetence in these basic and necessary areas in his dealings with clients.

Succinctly stated, the weight of the evidence presented by the Applicant does not sufficiently support a finding that the director's action in denying the Applicant's request for license was unreasonable.

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 be SUSTAINED, and that Applicant's request for licensure as a resident insurance producer is denied.

Dated this 24th day of July 2023.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Megan VanAusdall, #27433
Hearing Officer


⁴ *NSBA v. Halstead*, Douglas County District Court, Case No. CI 20-6852

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 Rodney Halstead, Cause No. A-2329.

Dated this 24th day of July 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 the Applicant, Rodney Halstead, by mailing a copy to him at 2026 W. 37th St., Kearney, NE 68845, via regular U.S. mail, and a copy was also sent via electronic mail to RODHAL2026@HOTMAIL.COM on this 24th day of July 2023.

Sherry Storie