

SEP 15 2023

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	
APPLICATION FOR LICENSE FOR)	FINDINGS OF FACT, CONCLUSIONS
AMELIA BROWN)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-2334
)	

This matter came on for hearing on August 29, 2023, before Cheryl Wolff, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) was represented by its counsel, Michael Anderson. Amelia Brown (“Applicant”) was represented by her counsel, Jeffrey Silver. The proceedings were recorded by Shelly Storie, a licensed Notary Public. The Department and Applicant presented evidence at the hearing and the matter was taken under advisement. 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. Applicant is appealing the denial of her application for a resident producer’s license pursuant to Neb. Rev. Stat. §44-4059(1)(f) for having been convicted of a felony.
3. 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 July 27, 2023. Within the Uniform Application for Individual Producer License (“Application”), Applicant answered Question 1(b) in the affirmative indicating that she had been convicted of a felony. (Ex. 1,

Attachment 1). Applicant submitted additional information informing the Department of her 2003 criminal conviction for Welfare Fraud, a third-degree felony, in the Circuit Court, Eighteenth Judicial Circuit, Brevard County, Florida. Applicant also disclosed her 2005 probation violation for leaving Florida without first obtaining the consent of her probation officer. Applicant had pled guilty to both the underlying offence and the probation violation. (Ex. 1, Attachment 1).

4. On or about August 7, 2023, the Department denied Applicant's Application for licensure due to Applicant's felony conviction in a letter sent via certified and regular mail to the business and mailing address listed on the Application. (Ex. 1, Attachment 2).

5. On or about August 14, the Department received written correspondence from Applicant's legal counsel, pursuant to Neb. Rev. Stat. § 44-4059(2), requesting an administrative hearing regarding the denial of her insurance producer license. (Ex. 1, Attachment 3).

6. On or about August 16, 2023, Applicant was served with a Notice of Hearing by mailing a copy to her attorney, Jeffrey Silver, via electronic mail at jeffreysilver@silver-law.net. (Ex. 2).

7. Applicant and her counsel, Jeffrey Silver, appeared before the Department at an administrative hearing held on August 29, 2023, at approximately 11:00 a.m.

8. At the administrative hearing, held on or about August 29, 2023, the Applicant testified to explain the circumstances of her criminal conviction and probation violation and her personal history which led to these events. Applicant testified that she was under extreme stress due to family matters, that she failed to report her income for one month leading to her felony conviction, and she plead guilty to the charge. (Ex. 1, Attachment 1; Testimony of Applicant).

During probation, she had provided her probation officer with notice that she intended to relocate to another state due to being homeless in Florida but failed to wait for the requisite consent before moving. When she became aware of the violation, she returned to Florida, surrendered, and

pled guilty. Applicant has subsequently successfully completed all the terms of her probation, including restitution. Applicant has worked hard to change her situation in the twenty years since her conviction. After several years living in other states, she relocated to Nebraska and has maintained stable employment at Applied Underwriters, Inc. since August 2022. In order to accept a promotion within the company, she is required to hold an insurance producer license in Nebraska. If she does not obtain a license, she would not be eligible for promotion to a new position. (Ex. 1, Attachment 3; Testimony of Applicant).

Testimony was also offered by Sheri Michaelson, the Applicant's supervisor at Applied Underwriters, stating she has supervised the Applicant since August of 2022. Applicant has at all times displayed integrity, honesty, and empathy in her work intaking claims and handling calls related to those claims. (Testimony of Sheri Michaelson at the License Denial 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)(f), the director may suspend, revoke, or refuse to issue or renew an insurance producer's license for a felony conviction.
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 felony conviction constitutes a sufficient statutory basis to deny her license renewal application as a Nebraska resident insurance producer. However, such denial is discretionary, not mandatory. The purpose of the license renewal 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 regarding the circumstances leading to her violation and felony conviction twenty years ago. She took responsibility for her actions, completed restitution and probation, and has taken significant steps to re-build her life and support her family. Applicant is requesting to be provided a resident insurance producer's license in order to pursue advancement in her career. Applicant's Application for licensure at this time can be seriously considered, despite Applicant's criminal history, because the record demonstrates the Applicant has been successful in making a change, has successfully worked for an insurance company for over a year, and demonstrated a substantial likelihood that Applicant will not re-offend or make decisions that conflict with the ethical standards required of an insurance producer.

The weight of the evidence presented by the Applicant sufficiently supports a finding that the director's action in denying 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 15th day of September, 2023.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Cheryl Wolff, #22990
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 Amelia Brown, Cause No. A-2334.

Dated this 15th day of September, 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 by mailing a copy to her business and mailing address, 10805 Old Mill Road, Omaha, NE 68514, and her residential address, 10823 N Mill Ct, Apt. 1, Omaha, NE 68154. via regular U.S. mail on this 15th day of September, 2023.

Shelly Storie