

FEB 20 2024

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	
PRELIMINARY APPLICATION FOR)	FINDINGS OF FACT, CONCLUSIONS
LICENSE FOR CALLUM A. G. PAGE.)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-2348

This matter came on for hearing on January 16, 2024, 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. Callum A. G. Page (“Applicant”), was present and was not represented by counsel. 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. On December 6, 2023, Applicant submitted a Preliminary Application for a resident insurance producer’s license. (Exhibit 1, Attachment 1).
3. The Preliminary Application included the disclosure of two Class IIA Felony convictions on January 5, 2023, for Assault by Strangulation or Suffocation and False Imprisonment in the First Degree. Applicant was sentenced on March 20, 2023, to three years of probation on each count, to run concurrently. The terms of the Order of Probation included provisions for the “alco-

sensor testing or random chemical testing ... to determine the presence of alcohol and/or controlled substances” and special terms requiring individual therapy that include “attending weekly DBT group therapy, and weekly individual sessions.” (Exhibit 1, Attachment 1).

4. The Applicant also disclosed, but records were not available for, a misdemeanor conviction for Attempted 3rd Degree Assault/Domestic for which he was sentenced to 15 months of probation in March 2002. (Exhibit 1, Attachment 1).

5. On or about December 13, 2023, Applicant was served with a Notice of Hearing by certified and regular mail to his address on file with the Department at 726 Tara Rd., Papillion, NE 68046. (Exhibit 2, Attachment 1).

6. Applicant appeared before the Department at an administrative hearing on January 16, 2024, at approximately 10:00 a.m.

7. At the administrative hearing, held on or about January 16, 2024, the Applicant testified regarding the circumstances of his felony conviction and numerous steps he has taken to address issues including counseling and treatment for his abuse of alcohol and drugs, which were contributing factors in his lifestyle which led to his 2023 felony convictions for domestic violence and false imprisonment. These efforts are to learn about himself and change his relationships to avoid situations like those leading to his convictions. He does not have a specific employment offer but is seeking to start a career in sales and marketing and has individuals that may serve as mentors to him in this area. (Testimony of Applicant).

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 Petitioner.

3. Pursuant to Neb. Rev. Stat. §84-947 (3) the appropriate occupational board shall make a determination of whether the individual's criminal conviction would disqualify the individual from obtaining an occupational license, government certification, or state recognition of the individual's personal qualifications from that occupational board.

4. The occupational board shall issue its determination in writing within ninety days after receiving a preliminary application. The determination shall include findings of fact and conclusions of law, pursuant to Neb. Rev. Stat. §84-947(4)

5. 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 having been convicted of a felony or a Class I, II, or III misdemeanor.

6. 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 his preliminary application for a license 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 the applicant an opportunity, and the burden, to show why a license should be granted.

While Neb. Rev. Stat. §84-947(3), does not require the Department to hold a license denial hearing under Neb. Rev. Stat. §44-4059(2), the Department provided that additional due process to the Applicant prior to rendering a final decision on the preliminary application denial pursuant to Neb. Rev. Stat. §84-947(4). This permitted not only the submission of additional information as provided in Neb. Rev. Stat. §84-947(2)(b), but the opportunity for the Applicant to appear in person and be heard before the Department.

The Applicant testified to provide context to explain the circumstances leading to his criminal felony convictions on January 5, 2023, and the steps he has taken since to improve his life and address both his drug and alcohol abuse and his past domestic violence. Since his arrest and conviction, the Applicant has completed several therapy programs to address both his history of assault and domestic violence in addition to programs related to his drug and alcohol additions. Some of these efforts, including individual and group therapy, were part of the Order of Probation.

The Department applauds the Applicant for his continued efforts but notes the relatively short duration of these changes compared to his past 20 years of addiction and abuse. He has not completed his court-ordered probation, which extends until March 30, 2026. The evidence and the testimony of the Applicant regarding his long history of domestic violence, alcohol abuse, and drug abuse is significant. His progress over the past two years of therapy and sobriety from both drugs and alcohol,

much of which is directly required under the terms of his probation, has not demonstrated the ability of the Applicant to sustain this positive momentum after the term of his court ordered probation.

Despite the evidence and testimony presented by the Applicant at the hearing on the Preliminary Application, the Applicant's felony convictions would constitute a sufficient statutory basis for denial of a residential producer's license. The evidence would not sufficiently support a finding that the director's action in denying the Applicant's license application was unreasonable.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law made herein, it is recommended that pursuant to Neb. Rev. Stat. §84-947(3), that the Applicant's criminal conviction would disqualify the individual from obtaining a resident insurance producers license and if the Applicant submitted an application for a resident insurance producer it would be denied.

Dated this 20th day of February 2024.

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 Preliminary Application for License for Callum A.G. Page, Cause No. A-2348.

Dated this 26th day of February 2024.

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 Petitioner by mailing a copy to him at 726 Tara Rd., Papillion, NE 68046, via regular U.S. mail on this 20th day of February 2024.

