

FEB 21 2024

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	
APPLICATION FOR LICENSE FOR)	FINDINGS OF FACT, CONCLUSIONS
BUOMKUOTH WAL)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-2353

This matter came on for hearing on January 30, 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, Megan VanAusdall. Buomkuoth Wal (“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. Applicant is appealing the denial of his resident producer’s license pursuant to Neb. Rev. Stat. §44-4059(1)(f) for having been convicted of a felony or a Class I, II, or III misdemeanor. (Exhibit 1, Attachments 4 and 5).
3. On or about January 8, 2024, Applicant was served with a Notice of Hearing by certified and regular mail to his address on file with the Department at 3080 S St., Lincoln, NE 68505. (Exhibit 3, Attachment 1).

4. Applicant appeared before the Department at an administrative hearing on January 30, 2024, at approximately 10:00 a.m.

5. On June 22, 2022, the Applicant was sentenced to three years probation. On October 5, 2022, the Applicant admitted to a violation of Condition No. 1 of his probation, to refrain from all unlawful conduct, as he was allegedly charged with Theft by Shoplifting – 3rd Offense or Subsequent and Possession of Drug Paraphernalia on August 3, 2022. On December 7, 2022, the District Court of Hall County issued an order extending Applicant’s probation an additional two months subject to the same terms and conditions. He has not completed his court-ordered probation, which extends until August 22, 2025. (Exhibit 2, Attachment 3).

6. At the administrative hearing, held on or about January 30, 2023, the Applicant testified that he wished to obtain his resident producer license to move forward after a turbulent past that included his disclosed felony and misdemeanor theft convictions. Even after his conviction, but prior to his drug treatment, he admitted to using drugs. Since his probation violation, he made changes in his life, including drug treatment, actively attending church, and participating in church activities. Applicant admitted he made poor choices in the past but wants to move forward with his life. (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. §§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

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 applicants' or licensees' 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 an applicant the opportunity, and the burden, to show why a license should be granted.

The Applicant testified to provide context to explain the circumstances leading to his criminal felony conviction on May 12, 2022, for Possession of a Controlled Substance. He also testified regarding his current changed circumstances and his desire to work in the insurance industry to move beyond his troubled past.

The Department applauds the Applicant for his continued efforts but notes the relatively short duration of these changes compared to the more than 5 years' worth of criminal history, including several convictions for misdemeanor theft and his admissions of past alcohol and drug abuse. The

evidence and the testimony of the Applicant regarding his history of alcohol and drug abuse is significant. His progress over the past eighteen months of sobriety from drugs and alcohol is significant, but his alcohol treatment and drug testing is directly required under the terms of his probation. The Applicant has not demonstrated his ability to sustain this positive momentum after the end of his court ordered probation.

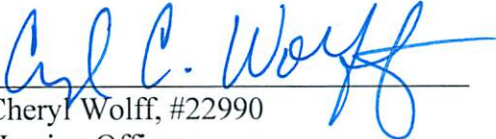
The weight of the evidence presented by the Applicant does not sufficiently support a finding that the director's action in denying the Applicant's request for license was unreasonable.

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 21st 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 Application for License Renewal for Buomkuoth Wal, Cause No. A-2353.

Dated this 21st 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 Applicant by mailing a copy to him at 3080 S St., Lincoln, NE 68505, via regular U.S. mail on this 21st day of February 2024.