

MAR 14 2024

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
CHERI DEARINGER)	AND ORDER
)	
)	CAUSE NO. A-2351
)	

This matter came for hearing on the 5th day of March 2024, 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. Cheri Dearing ("Applicant") appeared in person. 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 for licensure in the title line of insurance. Applicant's application for said license was submitted to the Department on or about December 20, 2023. Within the Uniform Application for Individual Producer License ("Application"), Applicant answered question 2 in the affirmative indicating that she had been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration. (See Exhibit 3, Attachment 1)

2. A review of the Department's records discovered that she had been named as a party to the following actions:

i. *State of Nebraska, Department of Insurance v. Cheri A. Uettwiller*¹, Cause No. A-1584 (See Exhibit 3, Attachment 2)

a. Hearing in this matter was held on September 14, 2004, with a subsequent final order being entered on September 28, 2004, ordering applicant to pay an administrative fine of \$750 and to ensure that an audit be performed and submitted to the Department no later than December 31, 2004. (See Exhibit 3, Attachment 2)

ii. *State of Nebraska, Department of Insurance v. Cheri A. Uettwiller*¹, Cause No. A-1612 (See Exhibit 3, Attachment 2)

a. Applicant signed a consent order in this matter on April 8, 2005, which was subsequently adopted on April 20, 2005. As a result of this order, Applicant's license was suspended until such a time as the audit required in the prior action was completed, and Applicant was ordered to pay an administrative fine in the amount of \$1,000. (See Exhibit 3, Attachment 2)

3. A check of the Department's records indicates that both fines assessed against Applicant have been paid. (See Exhibit 4, Attachment 1)

2. On or about December 21, 2023, Kevin Schlautman ("Schlautman"), licensing administrator of the Department, reviewed the application and supporting

¹ Applicant's Married Name

documentation. Schlautman determined to deny Applicant's request for a license on the grounds of Neb. Rev. Stat. § 44-4059(1)(h), "using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere", and Neb. Rev. Stat. § 44-4059(1)(i), "having an insurance producer license, or its equivalent, denied, suspended, placed on probation, or revoked in Nebraska or in any other state, province, district, or territory". (See Exhibit 3, Attachment 3)

4. On or about February 5, 2024, the Department received written correspondence from Applicant, pursuant to Neb. Rev. Stat. § 44-4059(2), requesting an administrative hearing regarding the denial of her license application. (See Exhibit 3, Attachment 4)

5. On or about February 12, 2024, the Department sent notice of this proceeding to the Applicant at her registered addresses of 1211 Rawhide Road, Papillion, Nebraska 68046 and 9719 Giles Road, LaVista, Nebraska 68128, via certified mail, return receipt requested, and by regular United States mail. (See Exhibit 5, Attachment 1)

7. Applicant testified at the administrative hearing, explaining the circumstances of her prior administrative actions. Applicant stated that, while she now understands the importance of protecting her licensure, her inclusion as a Designated Licensed Responsible Producer ("DRLP") for American Escrow Services was done without her knowledge, which directly led to the administrative actions listed above. Since that time, Applicant has obtained a non-licensed position at Premier Land Title, which she has held without incident since 2020. Recently, Applicant was given an opportunity to

advance within the company, which would necessitate obtaining a license. (Testimony of Applicant) (See Exhibit 1: Letters of Recommendation)

DISCUSSION

Applicant's prior administrative actions, and suspension, constitute sufficient basis for the denial of Applicant's 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 demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business, pursuant to Neb. Rev. Stat. § 44-4059(1)(h), or if the applicant has had an insurance producer license suspended, pursuant to Neb. Rev. Stat. § 44-4059(1)(i). 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.

In this instance, Applicant appeared in person at the hearing and provided some context for the administrative action history, and it should be noted that almost 20 years have passed since that time. Applicant has been involved in the title industry at her current post for almost 4 years with no new issues and has provided written letters of recommendation from others in the industry expressing support for applicant obtaining said license.

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 Department has statutory authority to deny an applicant's license if the applicant has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business, pursuant to Neb. Rev. Stat. § 44-4059(1)(h), or if the applicant has had an insurance producer license suspended, pursuant to Neb. Rev. Stat. § 44-4059(1)(i)

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 overturned, and that Applicant's application for licensure be approved. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter.

Dated this 14th day of March 2024.

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 Cheri Dearing, Cause No. A-2351.

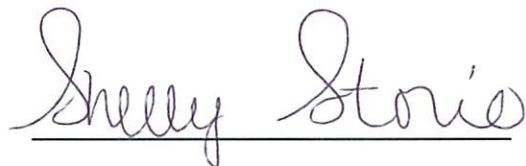
Dated this 14th day of March 2024.

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 Applicant, Cheri Dearing, by mailing a copy to her at 1211 Rawhide Road, Papillion, Nebraska 68046 and 9719 Giles Road, LaVista, Nebraska 68128, via certified mail, return receipt requested, by regular U. S. mail, and via electronic mail to cheri.dearinger@gmail.com on this 14th day of March, 2024.


Shelly Storie