

AUG 02 2012

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

**FILED**

IN THE MATTER OF THE DENIAL OF  
APPLICATION FOR LICENSE FOR  
SUMMER MELROY.

)  
) FINDINGS OF FACT, CONCLUSIONS  
) OF LAW, RECOMMENDED ORDER  
) AND ORDER  
)  
) CAUSE NO. A-1951  
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This matter came on for hearing on the 17<sup>th</sup> day of July, 2012, before Michael C. Boyd, 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, Charles Hamilton. Summer Melroy (“Melroy”) was present and was not represented by an attorney. The proceedings were digitally voice recorded by Tracy Gruhn, 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. Melroy has applied to become a resident licensed insurance producer with the State of Nebraska. Melroy applied for said license on or about June 8, 2012, and the Department received the application on or about June 11, 2012. On her application, Melroy answered in the affirmative that she had been convicted of a felony or misdemeanor crime, which included a 1997 Possession of a Controlled Substance Class I misdemeanor conviction, a 1997 Issuance of Bad Check – Less than \$100 Class II misdemeanor conviction, a 2001 Failure to Appear – No Proof of Insurance misdemeanor conviction, and a 2001 Attempted Third Degree Assault Class IV felony conviction

for which she was sentenced to a three (3) year probation. Melroy provided documentation of said criminal convictions as part of her application. (See E6).

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. Jason McCartney (“McCartney”), licensing administrator for the Department, denied Melroy’s license application on the grounds that she had been convicted of a felony or a Class I, II, or III misdemeanor, pursuant to Neb. Rev. Stat. §44-4059(1)(f), and sent her a letter to that effect on June 13, 2012. (See E6).

4. Melroy submitted a written request for a hearing on the denial of her insurance producer license application, pursuant to Neb. Rev. Stat. §44- 4059(2). (See E6).

5. On or about July 3, 2012, the Notice of Hearing in this matter was served upon Melroy by certified mail, return receipt requested and regular U. S. Mail, and the return receipt was returned to the Department on or about July 16, 2012 confirming delivery of the Notice of Hearing. Melroy appeared at the hearing. (See E5).

6. Melroy has a criminal history that includes convictions for both felony and misdemeanor offenses, one of which involved a misdemeanor financial crime. The majority of Melroy’s crimes stemmed from alcohol and drug abuse that she engaged in between the ages of 19 to 23. During her probationary status following her 2001 Attempted Third Degree Assault Class IV felony conviction, she successfully completed a substance abuse treatment recovery program and aftercare at Siena Francis House in Omaha, submitted to and passed all of her drug tests and paid her court fee costs. Melroy provided a Release of Probation Order from the District Court of Buffalo County, Nebraska dated December 7, 2004. (See E6).

7. Melroy earned an Associate degree with Honors in Business from Metropolitan Community College in August, 2006 and while there she was offered and performed a job as a Financial Aid Specialist. She then earned a Bachelor of Science in Business Management degree with Honors from Bellevue University in January, 2008. (See E1).

8. Melroy provided copies of a number of letters that were submitted on her behalf in 2006 when she was applying for an Omaha Women's Chamber of Commerce Scholarship to be used while she was attending Bellevue University. The letters attested to her character and abilities as a student, validated her dependability and growth as a person of integrity, as well as her work efforts in the Metropolitan Community College Student Services Office. She was awarded the scholarship. (See E3).

9. Melroy provided numerous signed and notarized affidavits of support from both persons she has worked for and persons she provided services as a "professional organizer" that "testify" to her trustworthiness and high character. They noted that she had made them aware of her past criminal history, and that she had, in many cases, worked on financial matters and not only been honest and trustworthy but also had proven to be of great help on many matters. (See E4.)

10. At the hearing, Melroy testified about the circumstances surrounding the various crimes listed on her application. She noted that a number of the convictions were related to her substance abuse in her late teens and early 20s (she is currently 33 years old) for which she has been through a substance abuse recovery program and has been "drug-free" since her 2001 conviction. She further noted that she has taken every opportunity since that time to learn from her past misconduct, to earn a college education, and try to "give back" to society by applying herself to both work and her family life with honesty and integrity. She also testified that should she successfully obtain an insurance producer license, she will engage in an insurance sales position

with National Agents Alliance in Hastings, where she is currently employed as a staff assistant and recruiter.

### DISCUSSION

In reviewing the record and testimony of Melroy, while I am somewhat troubled about her criminal history, it should be noted that it occurred over 10 years ago and she has addressed the substance abuse that was underlying some of her criminal convictions. She was a young “out of control” person at the time, and has, according to evidence and testimony adduced at the hearing, completed a substance abuse recovery program during her probationary period following her last conviction in 2001. Further, she fully disclosed her previous convictions to the Department. Melroy pursued and completed post-secondary educational opportunities to make a better life for herself and her family. Her employment history shows that she has strived to lead a more constructive life, and has acted with honesty and integrity and a positive attitude while trying to help people. If granted a license, Melroy would be afforded an opportunity to not only become a more productive member of society, but would be in a position to better the financial situation for her family. I have found Melroy’s testimony and evidence introduced at the hearing to be credible.

### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Melroy to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.
2. The Department has personal jurisdiction over Respondent.
3. The Director may deny the issuance of an insurance producer license on the basis of the applicant’s previous conviction of a felony or a Class I, II, or III misdemeanor pursuant to Neb. Rev. Stat. §44-4059(1)(f).

4. Melroy's previous felony and misdemeanor convictions are a sufficient basis for denial of her insurance producer license application. However, such denial is discretionary, not mandatory.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Summer Melroy have her insurance producer's license application approved. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter until Melroy has complied with all provisions of this order.

Dated this 27<sup>th</sup> day of July, 2012.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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Michael C. Boyd  
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 Summer Melroy, Cause No. A-1951.

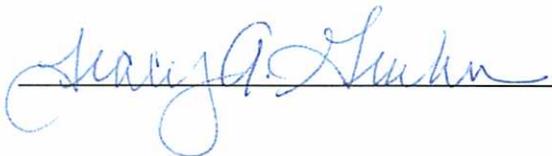
Dated this 2<sup>nd</sup> day of August, 2012.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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Bruce R. Ronge  
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 Summer Melroy by mailing a copy to her at 2303 W. 9th, Hastings, NE 68901, by certified mail, return receipt requested and regular U.S. Mail, on this 3<sup>rd</sup> day of August, 2012.

  
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