

FEB 19 2013

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	FINDINGS OF FACT, CONCLUSIONS
APPLICATION OF LICENSE FOR)	OF LAW, RECOMMENDED ORDER
DANIEL HALL.)	AND ORDER
)	
)	CAUSE NO. A-1976
)	

This matter came for hearing on the 13 day of February, 2013, before Eric Dunning, 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, Joel F. Green. Daniel Hall (“Applicant”) was present and was not represented by counsel. The proceedings were tape 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. 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 December 28, 2012. Within the Uniform Application for Individual Producer License, Applicant answered in the affirmative that he has been convicted of a crime, had a judgment withheld or deferred, or is currently charged with committing a crime. (See Ex. 2)

2. On or about June 14, 2006, Applicant was sentenced in the Sixth Judicial District Court in and for Sanpete County, Utah, pursuant to a guilty plea for distribution of a controlled substance, a second degree felony. Applicant was given a suspended sentence and placed on Parole for thirty six months. Applicant was also required to serve sixty days in the county jail and pay a fine of \$1,000. Applicant successfully completed all sentencing requirements. (See Ex. 2)

3. On August 5, 2009, upon Applicant's successful completion of probation and payment of the required, the Sixth Judicial District Court in and for Sanpete County, Utah ordered a change in the court records to reduce the conviction from a second degree felony to a third degree felony. (See Ex. 3)

4. Jason McCartney ("McCartney"), licensing administrator for the Nebraska Department of Insurance, denied Applicant's current license application pursuant to NEB. REV. STAT. § 44-4059(1)(f) on the grounds that Applicant had been convicted of a felony. (See Ex. 2)

5. On or about January 4, 2013, McCartney provided written notice of said denial to Applicant at the business address provided on his application, 2809 S. 160th Street, #201, Omaha, NE 68130, via certified mail, return receipt requested. (See Ex. 2)

6. On or about January 14, 2013, the Department received written correspondence from Applicant, pursuant to NEB. REV. STAT. § 44-4059(2), requesting an administrative hearing regarding the denial of his insurance producer license application. (See Ex. 2)

7. On or about January 24, 2013, a Notice of Hearing in this matter was submitted to Applicant at 2809 S. 160th Street, #201, Omaha, NE 68130, via certified mail, return receipt requested, and by regular United States mail. On or about January 29, 2013, the Domestic Return

Receipt attached to the certified letter was returned to the Department by the United States Postal Service confirming delivery of the Notice of Hearing to Applicant on January 28, 2013. (See Ex. 1)

8. At the hearing, Applicant testified that he had completed the terms of his parole, had completed a twelve step program successfully, and had not reoffended since 2006. Applicant further testified that he recently became a father, and so has further incentive to provide for others.

DISCUSSION

While Applicant's previous felony conviction is a sufficient basis for the denial of Applicant's insurance producer license application, such denial is discretionary, not mandatory. The evidence presented suggested, since his 2006 conviction, Applicant has complied with all probationary requirements, and completed outpatient treatment program. He has not been involved in criminal activity, and now resides several hundred miles from his previous associates. If granted a license, Applicant would be afforded an opportunity to not only become a more productive member of society, but he would be in a position to better the financial situation for his young family. As such, it is my recommendation that the denial of Applicant's application for an insurance producer license be overturned.

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 ET SEQ.

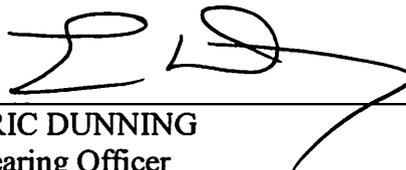
2. The Department has personal jurisdiction over Applicant.
3. The Director may deny the issuance of an insurance producer license on the basis of Applicant's previous conviction of a felony or Class I, II, or III misdemeanor pursuant to NEB. REV. STAT. § 44-4059(1)(f).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, the following is recommended for adoption by the Director of Insurance that Applicant have his insurance producer's license application approved. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter.

Dated this 19 day of February, 2013.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



ERIC DUNNING
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 Daniel Hall, Cause No. A-1976.

Dated this 19 day of February, 2013.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



BRUCE R. RAMGE
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, Daniel Hall, by mailing a copy to him at 2809 S. 160th Street, #201, Omaha, NE 68130, via certified mail, return receipt requested and by regular United States mail on this 19th day of February, 2013.