

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

JUN 28 2022

FILED

IN THE MATTER OF THE DENIAL OF)	FINDINGS OF FACT, CONCLUSIONS
APPLICATION OF LICENSE FOR STACIE)	OF LAW, RECOMMENDED ORDER
M. WADE.)	AND ORDER
)	
)	CAUSE NO. A-2296
)	

This matter came on for hearing on the 25th day of May, 2022, before Megan VanAusdall, 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, Michael Anderson. Stacie M. Wade (“Wade”) was present by telephone and was not represented by an attorney. The proceedings were tape 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. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. On or about May 28, 2020, in the District Court of Douglas County, Nebraska, Case No. CR21-4184, Wade was sentenced to supervised probation for a period of two (2) years subsequent to a conviction for Issuing a Bad Check (value \$1500 to \$5000), a Class IV Felony (Ex. 13, Attachment 1).

3. On May 3, 2022, Wade applied for a Nebraska resident producer's license. On the application, Wade admitted that she had been convicted of a crime but denoted that she had not been a part of any previous administrative hearing(s). (Ex. 13, Attachment 1)

4. Respondent had her insurance producer license revoked, after a hearing held by the Department on July 15, 2004, in Cause Number A-1559. (Exhibit 13, Attachment 2)

5. On or about May 4, 2022, the Department denied Wade's application for licensure due to providing incorrect, misleading, incomplete or materially untrue information in the license application, having demonstrated financial irresponsibility in the conduct of business in this state or elsewhere, and having an insurance producer license or its equivalent denied, suspended, placed on probation or revoked in any other state, province, district or territory, pursuant to Neb. Rev. Stat. §§ 44-4059(1)(a), (h), and (i).

6. On or about May 6, 2022, Wade filed a timely appeal of the application denial. (Exhibit 13, Attachment 4)

7. Wade testified at the subsequent hearing, held May 25, 2022 at the Department's offices, that the prosecuting attorney of the felony case (CR21-4184, see above), had agreed to lower the charge to a misdemeanor, provided Wade had paid the associated restitution (i.e., the amount of the bad check plus any relevant expenses) by May 24, 2022, also the date of a scheduled hearing in the same criminal case. Wade testified that she had attended the hearing on May 24, 2022, and, since (according to Wade's testimony), she had paid all restitution in full as of that date, the prosecuting attorney had agreed to lower the charge from a felony to a misdemeanor Issuing A Bad Check. due to the limited time period between the criminal case's hearing and the Department's hearing, the hearing officer for the Department ruled the record would be kept open for a period of seven days

following the hearing to allow Wade to obtain these records once processed by the clerk of the criminal court.

8. As of June 2, 2022, the Department had not received any further court records or other documents from Wade. Accordingly, the record was closed on June 2, 2022, and no further exhibits or evidence were added.

9. Wade further testified during the hearing that she is seeking a license to sell various types of insurance, including life and health.

10. Wade further provided two letters of recommendation. (Exhibits 5, 10 and 12)

DISCUSSION

Wade's felony charge, the revocation order on her previous license by the Department (see A-1159), demonstrated financial irresponsibility which served as the basis of her previous revocation, and her failure to report that revocation constitute a sufficient statutory basis to deny her application as a Nebraska resident insurance producer. However, such denial is discretionary, not mandatory. The purpose of the license 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.

Wade failed to report on her application a previous administrative action that had been taken against her, which resulted in the revocation of her license in 2004 (A-1159). Adding to this, the facts found in A-1159 show Wade initially attempted to pay for her insurance producer license fees with a check associated with a closed account, then, when informed her first payment had not cleared, she sent the Department a second payment in the form of a check that was returned for insufficient funds.

Even if Wade made a genuine mistake on her application, such lack of attention to detail does not bode well for her being a licensed producer, responsible for filing documents for clients in a timely

and accurate way. Also, Wade was aware, via her testimony at the hearing, that she had previous administrative actions taken against her. Yet, despite knowing this, Wade still marked on her application that she did not have any previous administrative actions against her by the Department.

The fact pattern of the bounced checks for Applicant's licensing fees, combined with the Applicant failing to disclose a previous administrative action from the Department on her most recent application show a troubling tendency towards either deceit or, more generously, a crucial lack of attention to detail. Neither are good recommendations for Applicant to hold an insurer producer license.

Unfortunately, while she has clearly made strides in her professional life since 2004, some of the same problems still exist and cannot be ignored.

Succinctly stated, 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.

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 Respondent.
3. Pursuant to Neb. Rev. Stat. §§44-4059(1)(a), the director may suspend, revoke, or refuse to issue or renew an insurance producer's license for providing incorrect, misleading, incomplete or materially untrue information in the license application.
4. 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.

5. Pursuant to Neb. Rev. Stat. §§44-4059(1)(i), the director may suspend, revoke, or refuse to issue or renew an insurance producer's license for having an insurance producer's license revoked in Nebraska, or in any other state, district, or territory.

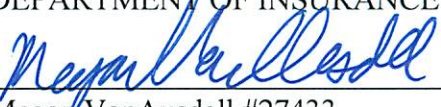
6. If the director does not renew or denies an application for a license, the director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written 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).

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 28th day of June, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Megan VanAusdall #27433
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 license denial of Stacie M. Wade, Cause No. A-2296.

Dated this 28th day of June, 2022.

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 Respondent by mailing a copy to Respondent at 6121 N 148th Street, Omaha, NE 68116, by certified mail, return receipt requested, on this 28th day of June, 2022.

