

Iowa Department of Inspections and Appeals  
Division of Administrative Hearings  
Wallace State Office Building – Third Floor  
Des Moines, Iowa 50319

---

IN THE MATTER OF ) Docket No. 12IID023  
 )  
JOSEPH SEHR, ) **PROPOSED DECISION**  
 )  
Respondent. )

---

The parties to this proceeding are the Iowa Insurance Division and Respondent Joseph Sehr. A Reissued Notice of Hearing and Hearing on Denial Order for Consent to Work in the Business of Insurance were served on Sehr on January 7, 2013. A contested case hearing was held on February 4, 2013. Attorney Tim Duffy represented Sehr. Sehr appeared and testified. Attorney Bob Koppin represented the Insurance Division. Wayne Lacher appeared and testified on behalf of the Insurance Division. Exhibits 1 through 10 were admitted into the record.

**FINDINGS OF FACT**

Sehr works for A-2-Z Bail Bonds in Des Moines, but resides in South Dakota. On August 14, 2012, Sehr submitted an application for written consent to work in the business of insurance to the Insurance Division requesting consent to work as an insurance producer for A-2-Z Bail Bonds. In support of his application, Sehr reported he worked as a police officer and as a bail bondsman in South Dakota. Sehr wants to work in the business of insurance to be able to provide for his family. Doug Buchan, the owner of A-2-Z Bail Bonds submitted a letter in support of Sehr's application to the Insurance Commissioner noting Sehr has worked hard and should be given a chance.

In his application, Sehr revealed he had several criminal convictions, as follows:

Year	County	Case Number	Conviction
2007	Clarke Co.	FECR0011695	1st Degree Theft (Class C Felony)
2008	Warren Co.	FECR024554	2nd Degree Theft (Class D Felony)
2008	Polk Co.	FECR216358	1st Degree Theft (Class C Felony)
2008	Dallas Co.	FECR031044	1st Degree Theft (Class C Felony)
2009	Polk Co.	AGCR231529	Consumption/Intoxication (Simple Misdemeanor)
2012	Dallas Co.	FECR034581	3rd Degree Theft (Aggravated Misdemeanor)

Sehr's first degree and second degree theft convictions arose out his ownership of Source One Construction LLC ("Source One"), a building contracting company located in Van Meter and Grimes. Sehr was not involved in the business of insurance when he ran Source One. Sehr receive suspended prison terms, probation, and restitution. Sehr

provided the Insurance Division with documentation of restitution plans totaling over \$186,000. Sehr reported he has repaid \$100,000 in the past three years.

Sehr was involved in additional criminal conduct following his original theft convictions. Sehr wrote a bad check that resulted in his last conviction for theft in the third degree in 2012.

In addition his criminal prosecutions, the Consumer Protection Division of the Iowa Attorney General's Office filed a consumer fraud lawsuit against Sehr and Source One alleging Sehr and Source One took thousands of dollars in advance payments for home contracting work, but failed to do the work, did shoddy work, and used poor quality materials. Sehr did not file an answer to the Attorney General's Petition. The Attorney General moved for entry of a default judgment. On April 23, 2008, the Iowa District Court for Polk County entered a default judgment against Sehr based on his failure to appear. The Court entered a permanent injunction against Sehr and Source One and ordered Sehr and Source One to reimburse consumers in the amount of \$284,222, to pay a civil penalty of \$40,000, and to pay the state of Iowa's costs, including attorney fees in the amount of \$25,200. Assistant Attorney General Benjamin Bellus submitted a letter to the Insurance Division stating that the mission of his office is to protect that citizens of the state of Iowa and based upon that mission and Sehr's extended history with the Consumer Protection Division, "we cannot not recommend [Sehr] be granted any license, certification, authority or other status which might require a truthful and honest character." (Exhibit 1).

On February 6, 2012, the Court revoked Sehr's probation. The Court ordered he serve his original ten year prison sentence for FECR031044 in Dallas County, consecutively with the sentence in Dallas Co. FECR034581, and concurrently with the Polk Co. sentence he was currently serving in Oakdale. On July 19, 2012 Sehr was released from prison and placed on probation.

The Insurance Commissioner reviewed Sehr's application and found:

given the nature and severity of the crimes, the length of time since the convictions, the injury or loss caused by the prohibited person and considering the legitimate interest of the Division as well as the safety and welfare of the insurance industry and public at large, it is the decision of the Commissioner of Insurance to deny the Applicant's request for consent to work in the business of insurance.

(Exhibit 1). Sehr appealed.

## **CONCLUSIONS OF LAW**

The Iowa Legislature created the Insurance Division to regulate and supervise the business of insurance in the state of Iowa.<sup>1</sup> The Insurance Commissioner is the chief

---

<sup>1</sup> Iowa Code § 505.1 (2011).

executive officer of the Insurance Division.<sup>2</sup> Sehr wants to work as an insurance producer in Iowa. A person must obtain an insurance producer license from the Insurance Commissioner to sell, solicit and negotiate insurance in Iowa.<sup>3</sup>

Federal law precludes a person who has been convicted of a felony or a breach of trust from engaging in the business of insurance unless the person receives written consent from an insurance regulatory official authorized to regulate insurance.<sup>4</sup> The business of insurance includes the writing of insurance or reinsuring of risks by an insurer “including all acts necessary or incidental to writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.”<sup>5</sup> Sehr wishes to work as an insurance producer for A-2-Z Bail Bonds in Des Moines.

“A person who is prohibited by 18 U.S.C. § 1033 from engaging or participating in the business of insurance because that person has been convicted of a crime under that statute or of a felony involving dishonesty or breach of trust may apply to the commissioner for written consent to engage or participate in the business of insurance in [Iowa].”<sup>6</sup> The Iowa Legislature granted the Insurance Commissioner the express authority to establish the procedure and standards for issuing a written consent by administrative rule.<sup>7</sup>

A prohibited person is precluded from engaging in or transacting the business of insurance without the consent of the Insurance Commissioner.<sup>8</sup> A prohibited person is a person who is a resident of Iowa and who has been convicted of a felony crime involving dishonesty or a breach of trust.<sup>9</sup> While Sehr is not currently a resident of Iowa, he currently works for an Iowa business and requested consent to work in the business of insurance in Iowa.

The administrative rules define “breach of trust” as a criminal act that constitutes or involves “misuse, misapplication or misappropriation of” anything of value held as a fiduciary, or anything of value of any public, private or charitable organization.<sup>10</sup> Dishonesty is defined as “any criminal act which includes, but is not limited to, any offense constituting or involving perjury, bribery, forgery, counterfeiting, false or misleading oral or written statements, deception, fraud, schemes or artifices to deceive or defraud, material misrepresentations or the failure to disclose material facts.”<sup>11</sup>

Sehr has been convicted of several crimes of dishonesty involving misappropriation of funds. In deciding whether or not to grant consent to engage in or transact the business

---

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* §§ 522B.2., .5.

<sup>4</sup> 18 U.S.C. § 1033(e)(1).

<sup>5</sup> *Id.* § 1033(f)(1).

<sup>6</sup> *Id.* § 522B.16B(1).

<sup>7</sup> *Id.* § 522B.16B(2).

<sup>8</sup> 191 IAC 13.3.

<sup>9</sup> *Id.* 13.2.

<sup>10</sup> *Id.* 13.2.

<sup>11</sup> *Id.*

of insurance, the Insurance Commissioner considers: (1) the nature and severity of the crime; (2) the length of time since the conviction; (3) the injury or loss caused by the prohibited person; (4) whether the conviction is related to the business of insurance; (5) whether the prohibited person received a pardon; (6) whether the prohibited person completed parole or probation; (7) whether a breach of trust or dishonesty was involved; (8) the nature and strength of character reference letters; (9) the person's business and personal records after the conviction; (10) whether and to what extent the person made false statements in the application filed with the Commissioner; (11) whether the person has made material false statements in applications or other documents filed with state or federal agencies; (12) whether the prohibited person's conviction was expunged; (13) whether or not the person received the conviction in a foreign country; and (14) any relevant factors.<sup>12</sup> In considering these factors, and the information supplied by Sehr and the Iowa Attorney General's Office, the Insurance Commissioner determined Sehr constitutes a significant threat to the public and denied his application.<sup>13</sup>

Sehr bears the burden of persuasion and of production of the evidence in this case.<sup>14</sup> Sehr must present clear and convincing evidence he is not a threat to the public interest and public safety.<sup>15</sup>

Sehr has three convictions for theft in the first degree and one conviction for theft in the second degree. Theft in the first degree involves the theft of property exceeding \$10,000 in value.<sup>16</sup> Theft in the second degree involves the theft of property exceeding \$1,000, but not exceeding \$10,000 in value.<sup>17</sup> Sehr's convictions arose from his misappropriation of funds received in the course of his business in violation of Iowa Code section 714.1. The convictions did not arise out of work in the business of insurance.

Sehr was forthcoming with information concerning his convictions. Sehr's last theft conviction resulted from the writing of a bad check in 2012. His prior theft convictions occurred in 2007 and 2008. Sehr is currently on parole, following a prior revocation of his probation. Following his convictions Sehr worked for a satellite provider and collected confidential personal and financial information. Sehr owed and continues to owe significant restitution to a number of people who were injured by his acts. Considering the factors found in 191 IAC 13.5, I conclude Sehr constitutes a significant threat to the public. The Insurance Commissioner's decision should be affirmed.

## **ORDER**

The Insurance Commission's decision to deny Sehr consent to work in the business of insurance is **AFFIRMED**. The Insurance Division shall take any steps necessary to implement this decision.

---

<sup>12</sup> *Id.* 13.5(2)*a-n*.

<sup>13</sup> *Id.* 13.6(4).

<sup>14</sup> *Id.* 13.9.

<sup>15</sup> *Id.*

<sup>16</sup> Iowa Code § 714.2(1).

<sup>17</sup> *Id.* § 714.2(2).

Dated this 6<sup>th</sup> day of February, 2013.



Heather L. Palmer  
Administrative Law Judge  
515-281-7183

cc: Joseph Sehr  
Tim Duffy, 310 Walnut St., Ste. 5, Des Moines, IA 50309  
Robert Koppin  
Irene Vega

### **Notice**

An adversely impacted party may appeal a proposed decision to the commissioner within 30 days after the issuance of the proposed decision.<sup>18</sup> The appeal must be filed with the commissioner's office in writing. The commissioner's office is at 330 Maple Street, Des Moines, Iowa 50319. The notice shall specify: (1) the proposed decision or order appealed from; (2) the party initiating the appeal; (3) the specific findings or conclusions to which exception is taken; (4) the grounds for relief; and (5) the relief sought.

---

<sup>18</sup> 191 IAC 3.27.