

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 96085
)	
ALAN J. SULLIVAN,)	DECISION VACATING DENIAL
)	AND AN ORDER GRANTING
Respondent)	CONSENT TO WORK IN BUSINESS
)	OF INSURANCE

A hearing was held in the above-captioned matter beginning on November 7, 2017 at 10:00 a.m. before Commissioner Douglas Ommen. The hearing was held at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust St., 4th Floor, Des Moines, Iowa. The purpose of the hearing was to hear testimony and receive evidence regarding the Commissioner’s September 15, 2017, denial of Respondent Alan J. Sullivan’s application for consent to work in the business of insurance. The Respondent was present and appeared *pro se*. The Iowa Insurance Division (“the Division”) was represented by Compliance Attorney John Leonhart.

At the hearing, after Commissioner Ommen provided instruction to the parties on procedural matters, evidence was received.

1. The following witnesses appeared and were examined:

Witnesses for the Respondent:

Alan J. Sullivan, Respondent

Terry Judge

2. The following exhibits were marked and received into evidence:

Exhibits for the Division:

Exhibit A Notice and Denial of Consent to Work in Insurance Business dated September 15, 2017

Exhibit B Complaint and Judgment of guilt of Theft in the 2nd Degree; Sentence in Polk County District Court dated July 16, 1992 to 2 years in the Polk County Jail, Case No. 60376

Exhibit C Complaint and Judgment of guilt of Count 1 – Burglary in the 2nd Degree and Count 2 – Operating a Motor Vehicle without Owner’s Consent; Sentence in Polk County District Court dated June 24, 2003 to 5 years in prison on Count 1 and 2 years in prison on Count 2, concurrent, Case No. FE 171364

Exhibit D Complaint and Judgment of guilt of Theft in the 1st Degree; Sentence in Polk County District Court dated October 4, 2007 to 10 years in prison, Case No. FE 212937

Exhibits for the Respondent:

Exhibit 1 Letter of recommendation from Senator Tony Bisignano dated November 6, 2017

Exhibit 3 Letter of recommendation from Mr. Jerry Briggs dated November 8, 2017

Exhibit 4 Polk County Clerk of Court payment record dated November 8, 2017

Exhibit 5 Iowa Department of Human Services payment record dated November 8, 2017

3. The following exhibit offered by Respondent was not admitted into evidence, but was filed as a pleading:

Exhibit 2 Letter of Respondent dated November 9, 2017

NOW THEREFORE, after reviewing the pleadings submitted in the case and the evidence received, we issue the following findings of fact, conclusions of law and orders:

FINDINGS OF FACT

1. According to his testimony, Respondent has requested consent to work in the business of insurance because he hopes to write bail surety for Out Bail Bonds LP, a bail bond agency, co-owned by Mr. Loren Lammers and Mr. Terry Judge.

2. Respondent has been convicted of the following crimes:
 - A. Respondent committed the felony of Theft in the 2nd Degree in violation of Iowa Code §714.2(2) on February 22, 1992 when he appropriated computer equipment with a value of at least \$1000.00;
 - B. Respondent committed the felony of Burglary in the 3rd Degree in violation of Iowa Code §§713.1 and 713.6A on January 2, 2003 when he appropriated an embroidery machine with a value of at least \$498.83 that was in a motor vehicle and committed the aggravated misdemeanor of Operating a Motor Vehicle without Owner's Consent in violation of Iowa Code §714.7;
 - C. Respondent committed the felony of Theft in the 1st Degree in violation of Iowa Code § 714.1 and .2(1) on May 25, 2007, when acting with another, appropriated a video recorder, an air compressor, and computer equipment with an aggregate value of at least \$10,000.

3. Respondent appeared *pro se*.

4. The Division through counsel, Mr. Leonhart, did not impeach Respondent's credibility through examination, nor did it contest his testimony, so we accept Respondent's testimony in this matter as uncontroverted evidence.

5. Respondent testified that he abused methamphetamine until his imprisonment in 2007 and that this abuse of drugs contributed to his poor judgment, his lack of responsibility and his criminal behavior. He testified that his desire for drugs shaped every day and every behavior during his life prior to his imprisonment in 2007.

6. Respondent testified that he has not used drugs since his release from prison in 2010. Respondent testified that he knows his responsibility to his children and his grandchildren. He further testified that he is "not going to be in trouble."

7. Respondent testified that he is "no longer the same person" who committed these crimes because "the factors that contributed" to this conduct are "no longer in [his] life."

8. Respondent did not minimize the conduct that led to the three felonies. He testified about his motivations to plead guilty to avoid more serious charges and testified he was ashamed of

his past. Respondent testified about his guilt and drug use, but was equally adamant about his commitment to his law-abiding present.

9. Based upon the evidence before us in this matter, we find Respondent has been rehabilitated from his drug dependency and criminal behavior.

CONCLUSIONS OF LAW

10. The Commissioner under Iowa Code § 522B.16B is granted sole discretionary authority by Iowa Administrative Code 191—13.5 to grant or deny applications for consent to work in the business of insurance.

11. Factors to be considered in the determination include the nature and severity of the crime, the length of time since the conviction, the loss caused by the prohibited person, whether the prohibited person completed probation, whether a breach of trust or dishonesty was involved, the nature and strength of character reference letters, and any additional relevant factors. Iowa Administrative Code 191—13.5(2).

12. Respondent's 1992, 2003 and 2007 felonies make him a prohibited person under 18 U.S.C §1033, Iowa Code § 522B.16B and Iowa Administrative Code 191—13.2.

13. The Respondent had the burden of demonstrating by clear and convincing evidence that he is not a threat to the public interest and public safety. Iowa Administrative Code 191—13.9.

14. Due to the Respondent's uncontroverted testimony of rehabilitation, the Commissioner concludes that were Respondent to be in the business of insurance, he would not present a financial and security risk to the consumers and others in the business.

15. The Respondent with his uncontroverted testimony of rehabilitation has shown by clear and convincing evidence that he is not a threat to the public interest and public safety of the state of Iowa.

16. The Commissioner has discretion to refuse to issue an insurance producer license for enumerated causes. Iowa Code § 522B.11 provides, in part:

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty as provided in section 522B.17 for any one or more of the following causes:
 - a. Providing incorrect, misleading, incomplete, or materially untrue information in the license application.
 - b. Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of a commissioner of another state.
 - c. Obtaining or attempting to obtain a license through misrepresentation or fraud.
 - d. Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.
 - e. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
 - f. Having been convicted of a felony.
 - g. Having admitted or been found to have committed any unfair insurance trade practice or fraud.
 - h. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
 - i. Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

* * *

2. If the commissioner does not renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the licensee or applicant of the reason for the nonrenewal of the license or denial of the application for a license. The licensee or applicant may request a hearing on the nonrenewal or denial. A hearing shall be conducted according to section 507B.6.

17. Iowa law grants wide discretion to a licensing authority such as the insurance commissioner. The Iowa Supreme Court has described this authority as “extremely broad.” *Burns v. Board of Nursing of State of Iowa*, 528 N.W.2d 602, 604 (Iowa 1995). As the purpose of statutory licensing schemes is to protect the public health, safety and welfare of the people of Iowa, the licensing statutes should be liberally construed. *Id.*

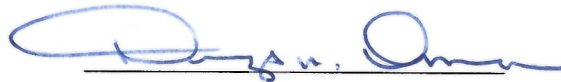
18. Nothing in this order obviates our full responsibility under Iowa Code § 522B.11, nor does this order predetermine a future decision on an application for insurance producer license by the Respondent under Iowa Code §522B.5.

ORDER

IT IS THEREFORE ORDERED that based upon the evidence before us, our September 15, 2017, denial is vacated and Alan J. Sullivan's application for consent to work in the business of insurance in the State of Iowa under Iowa Code § 522B.16B is granted.

IT IS FURTHER ORDERED that Alan J. Sullivan may submit an application for insurance producer license under Iowa Code § 522B.5, and full review under Iowa Code §522B.11 shall be reserved to the Division, including any challenge to rehabilitation from Respondent's 1992, 2003 and 2007 felonies.

Dated this 13th day of November, 2017.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Copy to Respondent and counsel for the Division

CERTIFICATE OF SERVICE

County of Polk)
)
State of Iowa)

The undersigned affiant certifies under penalty of perjury and pursuant to the laws of Iowa, on the 14th day of November, 2017, the foregoing order was delivered to the United States Postal Service, postage prepaid, for regular mail and email service to:

Respondent:
Alan Sullivan
2936 E Tiffin Avenue
Des Moines, IA 50317
Alsmail2017@yahoo.com



Hilary Foster
Iowa Insurance Division