

BEFORE THE IOWA INSURANCE COMMISSIONER

IN THE MATTER OF)	Division Case No. 114020
)	
GREGORY DAVID STUCKY,)	FINAL ORDER ISSUING
Applicant)	AN INSURANCE
)	PRODUCER LICENSE ON
)	PROBATION

DECISION

The Iowa Insurance Division properly refused Applicant Gregory David Stucky’s application for a resident insurance producer license because of his prior felony convictions. However, as a matter of discretion, the applicant will be granted a probationary license for a term of three years, subject to specific conditions.

A hearing was held in the above-captioned matter beginning on July 11, 2022, at 1:00 P.M. before Commissioner Douglas M. Ommen. The hearing was held at the offices of the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315. The purpose of the hearing was to hear testimony and receive evidence regarding the Iowa Insurance Division’s denial of Gregory David Stucky’s application for an individual insurance producer license. Gregory David Stucky (“Stucky”) appeared *pro se*. The Iowa Insurance Division (“the Division”) was represented by Compliance Attorney Johanna Nagel.

At the hearing, after Commissioner Ommen provided instruction to the parties on procedural matters, evidence was received. The Division called Ms. Jacqueline Russo, an administrative assistant and Stucky to testify. Stucky then called the following witnesses to testify: his wife, Victoria Elizabeth Stucky, and insurance producer Chris Bentzinger.

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. Stucky was charged in Iowa District Court for Dallas County on June 16, 2021, with two counts of Child Endangerment, a felony.

2. The facts alleged in support of count one in the felony charges were as follows:

On 5/7/21 at 1549 hrs Officers were dispatched to 400 4th street #10 on an unconscious patient. The caller Gregory Stucky, advised that he spanked his daughter, 1 year old and she was behaving strangely. Upon arrival the child was not responsive on the ground but was breathing. Stucky admitted to striking the child on the back as punishment for a temper tantrum. He said she then went to get up and was on her hands and knees and he struck her in the back again jolting her head and body forward causing her head to hit the ground. Stucky advised that she then went limp and was gray in color. The child was transported to the hospital.

3. The facts alleged in support of count one in the felony charges were as follows:

Gregory Sucky admitted to using a wooden spoon and metal spatula on his son, VS, for discipline. Resulting from the use of the wooden spoon and metal spatula, VS has a large scar on this back. VS was never taken to a doctor to have his injuries assessed. This was said to have taken place approximately a year ago.

4. Stucky entered a plea of guilty on September 15, 2021, to both felony counts charged.

5. On October 29, 2021, Stucky was sentenced to five years imprisonment on each count, but his sentence was suspended and he was placed on probation for three years.

6. Stucky filed a uniform application for license as a resident insurance producer in the state of Iowa with the Division on May 10, 2022 (“Uniform Application”).

7. In submitting the Uniform Application, Stucky designated the Commissioner as an agent for service of process.

8. Question 1B of the Uniform Application included the following question: “Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?”

9. Question 1 of the Uniform Application included the following instruction:

Note: For questions 1A, 1B and 1C, “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine. If you answer yes to any of these questions, you must attach to this application: (a) a written statement explaining the circumstances of each incident, (b) a copy of the charging document, and (c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

10. Stucky answered “Yes” to Question 1B of the Uniform Application.

11. The Uniform Application represents that it was submitted by Stucky, as the “producer,” and further bears the following attestation:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

12. On June 6, 2022, the Division denied Stucky’s May 10, 2022, resident insurance producer license application.

13. On June 6, 2022, Stucky was notified of the license denial based upon his prior convictions for Child Endangerment, a felony in violation of Iowa Code § 726.6 and the fact that he was on criminal probation.

14. Stucky requested a hearing and the matter was set by notice of hearing issued on June 16, 2022.

CONCLUSIONS OF LAW

15. Applications for resident individual insurance producer licenses in Iowa must be made on the National Association of Insurance Commissioners' uniform application for insurance producer licensing. Iowa Code §§ 522B.1(18) and 522B.5(1).

16. The Division has been participating in the NAIC uniform insurance producer application processes for at least 20 years. 2001 Acts, ch 16, §19, 37 and Iowa Code § 522B.5. Iowa's Licensing of Insurance Producers Law is based upon the NAIC's Producer Licensing Model Act. 2000 Proceedings of the NAIC, 3rd Quarter 7, 11, 36-45, 386, 403. Iowa is a participating state in the National Insurance Producer Registry ("NIPR"). (See NIPR News Release, http://www.nipr.com/news/10th_anniversary_marked.htm September 9, 2006.) *In the matter of Mulvehill*, No. 109030, 2021 WL 1717551 (Iowa Ins.Div., April 22, 2021), at 3.

17. 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. *Id.*

18. For the Commissioner to approve an application and issue an insurance producer license, Iowa Code §522B.5(1)(e) requires the Commissioner affirmatively find that the applicant "has the requisite character and competence to receive a license as an insurance producer."

19. 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.

20. The requirements of Iowa Code §§ 522B.5 and 522B.11 grant wide discretion to a licensing authority such as the insurance commissioner. The Iowa Supreme Court has described a state's licensing authority as "extremely broad." *In the matter of Diamond*, No. 96975, 2019 WL 5677529, (Iowa Ins. Div., Oct. 23, 2019), at 35; *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. *Diamond, Id.* at 35; *In the matter of Michael Nulph*, Division Case No. 94689, November 7, 2017, 2017 WL 6504599 (Iowa Ins. Div.) at 5.

21. Stucky may be disqualified from licensure by reason of his prior felony convictions. His harmful conduct involving his own very small children relates to both his character and his competence to engage in the business of insurance.

22. Stucky injured his one-year old daughter, but testified he “wasn’t even aware” of the risks of his actions toward his daughter. Although very substantial, the responsibilities of an insurance producer to his customers pale in comparison to the responsibilities of a father to a young child. Stucky’s lack of awareness concerning the danger to his very young children may at least suggest that stress may trigger other inappropriate reactions. In his own testimony Stucky described his compulsive behavior toward his own very young children as “a sense of duty, like going to war.” We are unable to discern from the evidence whether Stucky’s seemingly obsessive reactions relate to character or mental health, but our responsibility in issuing a license is clear: we must find that Stucky has the requisite character and competence to receive a license as an insurance producer.

23. After reviewing and considering all of the facts, we find that Stucky’s conduct is cause to refuse to issue to him an insurance producer license with its full authorities and privileges at this time. However, we also find that Stucky’s criminal conduct does not indefinitely disqualify him.

24. Stucky acknowledged his criminal conduct, but offered testimony of his rehabilitation. His wife’s testimony supported this conclusion. A letter from his probation officer explained that Stucky was receiving mental health therapy and has completed several parenting classes. His probation officer also indicated her expectation that Stucky would be discharged from supervision in April 2023. His criminal probation remains scheduled through October 29, 2024.

ORDER

IT IS THEREFORE ORDERED that a resident individual insurance producer license shall be issued to Gregory David Stucky, but such license shall be for a probationary term of three years, subject to the following special conditions:

- A. Be closely supervised by a managing general agent or other licensed individual insurance producer with supervisory experience. The identity of this individual shall be reported to the Division no later than September 15, 2022.
- B. File an annual report with the Division prepared by his managing general agent, employer or supervising agent describing any complaints or other concerns expressed by customers or co-workers about Stucky.
- C. Comply with every condition of the three-year probation under the supervision of the Department of Correctional Services, Fifth Judicial District, as ordered by the Iowa District Court for Dallas County, Case No. FECR044207.
- D. Attend mental health therapy as necessary, and receive a mental health assessment no less than every six months.
- E. Fully comply with all Iowa laws and regulations.

Dated this 16th day of August, 2022.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Copies to parties.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on August 16, 2022.

- By: First Class Mail
 Personal Service
 Restricted certified mail, return receipt
 Email, by consent
 Certified mail, return receipt

Signature: _____

Tammi Green
Tammi Green

NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER

YOU ARE NOTIFIED that acting as an insurance producer, as defined in Iowa Code chapter 522B, in violation of this Order, is a felony under Iowa Code § 507A.10, subjecting you to punishment of imprisonment, jail, fines, or any combination of custody and fines.

YOU ARE ALSO NOTIFIED that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code § 522B.17(3). The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation, and may issue further orders as it deems appropriate.

NOTICE OF FINAL ORDER IMPACT

A final order of license refusal or a cease and desist order may adversely affect other existing business or professional licenses and may result in license revocation or disciplinary action.

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this contested case. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.