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OCT 20 2010

Department of Insurance
State of Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of the)	
Application for Resident)	Docket No. 18-2639-10
Producer License of:)	
)	HEARING OFFICER'S FINDINGS
JENNIFER A. NIELSEN,)	OF FACT, CONCLUSIONS OF LAW
)	AND PRELIMINARY ORDER
_____)	

This matter came on for an evidentiary hearing on September 30, 2010, at 10:00 a.m. Thomas Donovan, Deputy Attorney General, appeared on behalf of the Department of Insurance. Jennifer A. Nielsen appeared by telephone representing herself.

FINDINGS OF FACT

1. On August 13, 2010, Jennifer A. Nielsen submitted an on-line Uniform Application to the Department of Insurance for an "Individual Resident Producer License". (Exhibit 1.) The first question on page 3 of the background portion of the application specifically asked: "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?" The question is further clarified by the

statement: "'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 having been given probation, a suspended sentence or a fine." In answer to that question, Ms. Nielsen answered "no". If the question is answered yes, the applicant must attach a written statement explaining the circumstances of each incident; a copy of the charging document; and a copy of the official document demonstrating the resolution of the charges or any final judgment.

2. While investigating Ms. Nielsen's application, the Department of Insurance discovered she had been subject to criminal proceedings in Bonneville County, Idaho, for battery. Upon request, Ms. Nielsen provided the Department with certain pleadings from that criminal case. Those documents establish that Ms. Nielsen was charged with a misdemeanor crime of battery on November 14, 2007, for striking Priscilla Holzmeister in the face. She had originally been charged with a felony on October 3, 2007. The charge was reduced to a misdemeanor as a result a written plea agreement signed by Ms. Nielsen on November 8, 2007. Ms. Nielsen agreed to plead guilty to the misdemeanor with sentencing to be left to the Court. While a copy of the Sentencing Order was not included, an Order of Discharge was entered July 16, 2009, after Ms. Nielsen successfully completed the terms and conditions of her probation.

3. By letter dated August 30, 2010, Gina McBride, the Bureau Chief of Consumer Services, for the Department of Insurance sent Ms. Nielsen a letter denying Ms. Nielsen's application for an

individual insurance producer license. The letter notes Ms. Nielsen was required to report the criminal charge because she had a battery conviction. Based upon the definition of a "conviction" in the Uniform Application, the Department determined Ms. Nielsen should have answered the question "yes." The Department advised Ms. Nielsen they were denying her application based upon Idaho Code §41-1016(1)(a) which allows the Department to deny an application when an applicant provides incorrect, misleading, incomplete or materially untrue information in the license application.

4. Pursuant to Idaho Code §41-232A, Ms. Nielsen requested a hearing in a letter received by the Department on September 9, 2010. She alleges she did not intentionally supply false information and did not intend or try to hide anything in her past.

5. The evidence establishes Ms. Nielsen did provide incorrect, misleading, incomplete and materially untrue information in her license application.

6. The fact that Ms. Nielsen thought she did not have to disclose the conviction because she thought the charges had been dropped does not provide a defense.

CONCLUSIONS OF LAW

7. Pursuant to Idaho Code §41-1016(1)(a), the Department of Insurance has the authority and grounds to deny Ms. Nielsen's application for an Idaho Individual Insurance Producer License.

PRELIMINARY ORDER

Based upon the foregoing, IT IS HEREBY ORDERED That the denial of the application of Ms. Nielsen by the Department of Insurance for an Individual Insurance Producer License is UPHELD and AFFIRMED.

DATED This 19 day of October, 2010.

JEAN R. URANGA

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Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 19 day of October, 2010, I served true and correct copies of the foregoing HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

Jennifer A. Nielsen
4110 Dixie Street
Idaho Falls, Idaho 83401-3850
**(Regular mail and certified mail
return receipt requested)**

Thomas A. Donovan
Deputy Attorney General
Idaho Department of Insurance
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