

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

In re:

HEATHER A. NORDLE

**Request for written consent to engage
in the business of insurance pursuant
to 18 U.S.C. § 1033**

Docket No. INS-15-602

DECISION AND ORDER

This proceeding requires consideration of the application of Heather A. Nordle, a resident of Maine, for written consent to participate in the business of insurance pursuant to Title 18 United States Code §1033. Title 18 U.S.C. §1033, in relevant part, prohibits a person from participating in the business of insurance if he or she has been convicted of a felony that involves dishonesty or breach of trust. That statute further allows a person who has been convicted of such a felony to participate in the business of insurance if that person has the written consent of an insurance regulatory official. Information provided by Ms. Nordle to the Bureau of Insurance indicates that on May 24, 2007, she pleaded guilty in the Waldo County Superior Court to a charge of Aggravated Forgery (Class B) in violation of 17-A M.R.S.A. § 702(1)(A), and Theft by Deception (Class C) in violation of 17-A M.R.S.A. § 354(1)(B)(4).

A hearing in this matter was held on December 28, 2015. Ms. Nordle attended but was not represented by Counsel. Also in attendance in support of Ms. Nordle were insurance producer Kristen Hanson, personal friend Louise Roming, and Ms. Nordle's fiancé Jacob Hillman. Lindsay Laxon, Esq. and Tracy Cunningham attended on behalf of the Bureau's Licensing Division. The Bureau issued a notice of hearing in this matter on December 15, 2015.

Title 18 U.S.C. §1033 was enacted as part of the omnibus anti-crime bill titled the "Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322, H.R. 3355). Section 1033 contains no provision that expressly establishes a standard of review for insurance regulatory officials to apply in considering applications for waiver of the prohibition. Congress appears to have left that subject to the discretion of the state officials.

Section 1033 waivers, once granted, allow individuals to be employed in any United States jurisdiction. Accordingly, state insurance commissioners acting through the National Association of Insurance Commissioners ("NAIC") in March 1998 adopted Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994. These guidelines, which were adopted after extensive deliberations and opportunity for public input, recommend the states utilize uniform §1033 application procedures and suggest many practical guidelines for investigation and consideration of any waiver applications received. Not

surprisingly, these guidelines are rooted in notions of public protection. The NAIC guidelines state that the following should be considered on a review of the merits¹ (parentheticals added):

- (a) (whether or not) the applicant has been fully rehabilitated and no longer poses a risk or threat to insurance consumers or the insurer; and
- (b) (whether or not) the issuance of written consent to the applicant is consistent with the public interest, Federal and State law and any applicable court orders.

The NAIC guidelines appear to be an appropriate standard to be utilized in this instance. The burden of proof that the standard has been met is on Ms. Nordle.

Information contained in Ms. Nordle's application for a waiver leaves no question that her convictions were for felonies involving dishonesty or breach of trust. Ms. Nordle submitted a copy of the docket record for each offense with which she was charged. The court records indicate that on May 24, 2007, she pled guilty to one count of Aggravated Forgery, (Class B), and one count of Theft By Deception (Class C). Ms. Nordle was sentenced to 132 days in jail, 2 years of probation, and restitution.

Ms. Nordle testified that she was in an abusive relationship, dependent upon drugs, and desperate for money to support her habit. She stated that the felony convictions stemmed from using a friend's credit card without permission. The records also indicate that on May 31, 2006, Ms. Nordle pled guilty to 2 counts of Theft By Unauthorized Taking (Class E), and 2 counts of Forgery (Class D). These are misdemeanor offenses. Although only felonies involving crimes of dishonesty or breach of trust are relevant for the purposes of 18 U.S.C. § 1033, misdemeanor convictions involving dishonesty bear upon the severity of the felonies and the person's overall fitness to engage in the business of insurance. Ms. Nordle indicated that all of her convictions stemmed from the use of drugs and her desperation as a result of her habit.

Ms. Nordle testified that she feared losing custody of her only child following her felony convictions, and accordingly, she made the conscious decision to change her life. She entered a lengthy rehabilitation program and successfully learned how to address triggers and other negative influences in her life. She relocated and was able to stay sober with the assistance of extensive counseling. She obtained employment and reconnected with her daughter. The evidence indicates that Ms. Nordle successfully completed all requirements of her sentence and subsequent probation, and has not had any convictions since. Ms. Hanson, Ms. Roming, and Mr. Hillman all testified to her strong character, her trustworthiness, and her determination to continue as a sober and productive member of society.

Ms. Nordle described her recent four year employment at a convenience store. She stated that she handled money, interviewed personnel, was in charge of payroll, and did banking on behalf of the store. Ms. Roming stated that she has many times left personal financial documents in plain sight when Ms. Nordle has visited her home and there has never been a problem.

¹ Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994, National Association of Insurance Commissioner, March, 1998, pp. 12-13.

Ms. Hanson testified that she would like to employ Ms. Nordle as a licensed producer at her agency. She stated that the agency has numerous procedures in place to assure that employees handle premiums appropriately and maintain consumer confidentiality. She stated that she does not believe Ms. Nordle poses any threat to insurance consumers or to insurers.

Ms. Nordle has applied to be a Maine resident producer with Property and Casualty authority. There is no question that Ms. Nordle is a resident of Maine and that this office is the appropriate insurance regulator to consider this matter. The evidence indicates that the activity for which Ms. Nordle was convicted was related to a substance abuse problem. Ms. Nordle has worked hard to successfully overcome her challenges and has been substance-free for nine years. There is no evidence to suggest that her employment in the business of insurance poses any risk or threat to insurance consumers or to insurers. Accordingly, this office finds that Ms. Nordle has satisfactorily demonstrated that she is entitled to a waiver of the prohibition of employment in the insurance industry provided for in 18 U.S.C. §1033.

Order

Pursuant to 18 U.S.C. §1033 (e)(2), Heather A. Nordle is hereby granted consent to engage in the business of insurance. This waiver is effective as of the date of this decision, January 4, 2016.

Notice of Appeal Rights

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It may be appealed to the Superior Court in the manner provided in 24-A M.R.S.A. §236 and M.R. Civ. P. 80C. Any party to the hearing may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal on or before 40 days after the date appearing below.

January 4, 2016



Pamela Stutch
Attorney
Maine Bureau of Insurance
Designated Hearing Officer