

6-2-05



FLORIDA
DEPARTMENT OF
FINANCIAL SERVICES



05 JUL 18 PM 4:20

FILED

FILED

TOM GALLAGHER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

JUL 14 2005

IN THE MATTER OF:

KRISTA ROSE NAVARRO

Docketed by: 

CASE NO: 80039-05-ADJ

05-755 SFD closed

FINAL ORDER

AT

THIS CAUSE came on for consideration and final agency action. On December 30, 2004, a Notice of Denial was issued by the Department of Financial Services denying the license application of the Petitioner, Krista Rose Navarro, as an independent all lines insurance adjuster, because of her criminal history and failure to reveal it. The Petitioner timely filed a request for a proceeding, which was referred to the Division of Administrative Hearings in order to conduct a Section 120.57(1), Florida Statutes hearing. Pursuant to notice, the matter was heard before Stephen F. Dean, Administrative Law Judge, Division of Administrative Hearings, on May 3, 2005.

After consideration of the record and argument presented at hearing, the Administrative Law Judge issued his Recommended Order on June 2, 2005. (Attached as Exhibit A). The Administrative Law Judge recommended that the Department enter a Final Order issuing the Petitioner licensure as a resident independent all lines insurance adjuster.

Neither party filed exceptions to the Recommended Order.

Therefore, upon careful consideration of the entire record, the submissions of the parties, and being otherwise fully advised in the premises, it is ORDERED:

1. The Findings of Fact of the Administrative Law Judge are adopted in full as the Department's Findings of Fact.

2. The Administrative Law Judge neglects to make a Conclusion of Law in the Recommended Order relative to the waiting period provided for in Rule 69B-211.042, Florida Administrative Code when the time period for the underlying crime has run, but a waiting period is imposed for failing to fully disclose an applicant's criminal history. In order to clarify the waiting period provided for by said Rule in relation to the facts of this case, the following is added as Conclusion of Law #15:

Rule 69B-211.042(4), Florida Administrative Code provides that an applicant who fails to disclose a Class A or B crime that occurred more than 10 years prior to the date of application must wait one (1) year before reapplying for licensure. The waiting period is to run from the later of either the date the Department issued its Notice of Denial, or the date that a previously imposed waiting period expires. In the present case, the Petitioner's waiting period would run from the date the Department issued its Notice of Denial, since Petitioner's waiting period for the crime in question had already run. However, due to the other mitigating factors referenced in Findings of Fact #5, #7 and #8 above, and in accordance with Rule 69B-211.042(10)(a) 6., Florida Administrative Code, the waiting period imposed should be reduced by a period of six months. Even though the denial was correct at the time, because of the other mitigating factors and the de novo nature of this proceeding, the Petitioner is therefore now eligible for licensure, provided all the other qualifications for licensure have been met.

This Conclusion of Law is as or more reasonable than the Administrative Law Judge's Conclusions of Law.

3. In all other respects, the Conclusions of Law of the Administrative Law Judge are adopted in full as the Department's Conclusions of Law.

4. The Administrative Law Judge's recommendation that the Department enter a Final Order issuing the Petitioner licensure as a resident independent all lines insurance adjuster is approved and accepted as being the appropriate disposition of this case.

ACCORDINGLY, it is ORDERED that Petitioner's, KRISTA ROSE NAVARRO's, application for licensure as a resident independent all lines insurance adjuster in this State is hereby GRANTED, and provided that all the other qualifications for licensure have been met, the license shall be issued.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of the Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla.R.App.P. Review proceedings must be instituted by filing a petition or Notice of Appeal with the General Counsel, acting as the agency clerk, at 200 East Gaines Street, Tallahassee, FL 32399-0333, and a copy of the same and the filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

DONE and ORDERED this 14th day of July, 2005.



Karen Chandler
KAREN CHANDLER
Deputy Chief Financial Officer

COPIES FURNISHED TO:

Krista Rose Navarro
111 Placido Place
Panama City Beach, FL 32413
Petitioner

Honorable Stephen F. Dean
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550

Dana M. Wiehle, Esquire
Division of Legal Services
Department of Financial Services
612 Larson Building
200 E. Gaines Street
Tallahassee, FL 32399-0333