

AUG 24 2017

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	FINDINGS OF FACT,
PETITIONER,	)	CONCLUSIONS OF LAW,
	)	RECOMMENDED ORDER AND
VS.	)	ORDER
	)	
ALAN GRAY, INC.,	)	
	)	CAUSE NO. C-2321
RESPONDENT.	)	

This matter came on for hearing on the 24th day of August 2017, before Matthew Holman, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Krystle Ledvina Garcia. Alan Gray, Inc., ("Respondent"), was not present and was not represented by counsel. The proceedings were recorded by Brandis Bauer, a licensed Notary Public. Evidence was introduced, and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-5801 to 44-5816. Said jurisdiction and control have been present at all times material hereto.
2. Respondent is a third-party administrator organized and existing under the laws of the State of Massachusetts. Respondent is and was licensed to engage in the business of insurance in Nebraska as a third-party administrator at all times material hereto. (Ex. 2)
3. On or about July 19, 2017, the Petition and Notice of Hearing were served upon the Respondent by mailing the same to the Respondent's addresses of record by certified mail, return

receipt requested, and by regular U.S. mail. Respondent received the Petition and Notice of Hearing on or about July 27, 2017, as evidenced by the Domestic Return Receipt. (Ex. 1)

4. Respondent has failed to file its annual report as a third-party administrator for the 2016 calendar year. (Ex. 2)

5. On or about March 3, 2017, the Department mailed correspondence to Respondent at its registered mailing address notifying Respondent of its failure to file its 2016 annual report. (Ex. 2)

6. On or about March 31, 2017, the Department mailed follow-up correspondence to Respondent at its registered mailing address via certified mail, return receipt requested, notifying Respondent of its failure to file its 2016 annual report. On or about April 6, 2017, The Department received the domestic return receipt card from this mailing indicating proper delivery. (Ex. 2)

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over Respondent as a third-party administrator licensed in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-5801 to 44-5816.

2. Pursuant to Neb. Rev. Stat. § 44-5814(1), each third-party administrator must file an annual report for the preceding calendar year with the director on or before March 1 of each year.

3. Pursuant to Neb. Rev. Stat. § 44-5814(3), at the time of filing its annual report, a third-party administrator shall pay to the director a \$200 filing fee.

4. Pursuant to Neb. Rev. Stat. § 44-5814(4)(b), a third-party administrator shall forfeit fifty dollars for each day that it is in noncompliance with Neb. Rev. Stat. § 44-5814 and it continues to transact the business of insurance. In addition to the forfeiture required, the director may suspend the certificate of authority of the third-party administrator until it has complied with the requirements of Neb. Rev. Stat. § 44-5814.

5. Respondent is in violation of Neb. Rev. Stat. §§ 44-5814(1) and 44-5814(3).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that:

Respondent's third-party administrator certificate of authority be suspended until such time as Respondent files its 2016 annual report, pays the two hundred dollar filing fee, and pays the required forfeiture fee. As the amount of the forfeiture fee cannot be determined prior to the date the report is submitted, upon submission of the report the Department will calculate the required forfeiture at fifty dollars per day pursuant to Neb. Rev. Stat. § 44-5814(4)(b)(i). To the extent the Department requires additional information be submitted by Respondent in order to properly calculate the forfeiture fee, Respondent shall submit such information.

Dated this 24th day of August, 2017.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



Matthew W. Holman  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance vs. Alan Gray, Inc., C-2321.

Dated this 24 day of August, 2017.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



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Bruce R. Range  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent at Respondent's registered address of 88 Broad Street, Boston, MA 02110, by certified mail, return receipt requested, on this 28 day of August, 2017.

