

NOV 05 2024

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, RECOMMENDED ORDER
PETITIONER,	)	AND ORDER
	)	
VS.	)	CAUSE NO. A-2396
	)	
ERIC BENDER	)	
(NAIC Producer # 19317131),	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on August 27, 2024, before Cheryl Wolff, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) was represented by its counsel, Michael W. Anderson. Eric Bender (“Respondent”), did not appear and was not represented by counsel. The proceedings were recorded by Shelly Storie, a licensed Notary Public. The Department offered Exhibits 1, 2, and 3 at the hearing, which were received without objection. The Respondent did not offer any exhibits. After the conclusion of evidence, the matter was taken under advisement. The hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. Respondent is a licensed resident insurance producer. Respondent’s business, residential and mailing address on file with the Department is 1323 Jackson St Apt. 111, Omaha,

Nebraska 68102-2876, and his registered business and personal email is [eric@benderinsurance.net](mailto:eric@benderinsurance.net) and his other registered email is Ebender7289@yahoo.com. (Ex. 2, Attachment 1).

1. On or about February 15, 2024, the Department was notified by Berkshire Hathaway Homestate Companies (“Berkshire”), that Respondent’s employment was terminated for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere. (Ex. 1, Attachment 1).

2. The Department conducted an investigation concerning the Respondent. (Ex. 1).

3. As a part of that investigation, the Department received Berkshire’s special investigation unit’s report, dated April 16, 2024, containing information substantiating allegations that Respondent misappropriated premium, stole funds, and evaded contact with investigators. (Ex. 1, Attachment 2).

4. On May 22, 2024, the Department sent a written inquiry letter to the Respondent which also contained a copy of a letter from the Department dated April 29, 2024, asking for a response to the Respondent’s Termination for Cause via his business and personal email registered with the Department and a by certified mail, return receipt requested, to his registered address. (Ex. 1, Attachments 3 and 4).

5. On May 22, 2024, the Department received a notice that the email was undeliverable. (Ex. 1, Attachment 3).

6. On May 28, 2024, the Department received a Domestic Return Receipt Card from the U.S. Postal Service marked, “RETURN TO SENDER, ATTEMPTED – NOT KNOWN, UNABLE TO FORWARD”. (Ex. 1, Attachment 4).

7. No response to these written requests was received by the Department. (Ex. 1).

8. On July 3, 2024, the Department, through counsel, filed a Petition and Notice of Hearing commencing this proceeding. (Ex. 3, Attachment 1).

9. On July 3, 2024, the Petition and Notice of Hearing were served upon Respondent by mailing the same to his registered address on file with the Department, by certified mail, return receipt requested, and via regular mail. (Ex. 3).

10. On or about July 15, 2024, the letters sent certified mail, return receipt requested, and the letter sent by regular U.S. mail to his registered address was returned by the United States Postal Service (“USPS”) to the Department marked “RETURN TO SENDER, ATTEMPTED – NOT KNOWN, UNABLE TO FORWARD”. (Ex. 3, Attachments 1 and 2).

#### CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control, and discretion over the licensing of insurance producers in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. § 44-4059, provides that the Director may refuse to issue or renew an insurance producer’s license for several reasons including: ... (b) Violating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director; and (g) Having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud.

4. Pursuant to Neb. Rev. Stat. § 44-1524(1), it shall be an unfair trade practice in the business of insurance for any insurer “to commit any act or practice defined in section 44-1525 if the act or practice is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act.”

5. Pursuant to Neb. Rev. Stat. § 44-1525(11), it shall be an unfair trade practice in the business of insurance for any insurer “[f]ailing of any insurer, upon receipt of a written inquiry from the department, to respond to such inquiry or request additional reasonable time to respond within fifteen working days.”

6. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b) and (g), Neb. Rev. Stat. § 44-1524(1), by way of Neb. Rev. Stat. § 44-1525(11), as a result of the conduct found in the Findings of Fact and as evidenced by the relevant exhibits received.

#### DISCUSSION

At the hearing, the Department presented sufficient evidence of proper service of notice of these proceedings upon Respondent. The Department served Respondent via certified mail, return receipt requested and regular U.S. mail to the Respondent’s address registered with the Department. Based upon the evidence of record, the Department’s service of the Petition and Notice of Hearing upon Respondent at his address of record was sufficient and jurisdiction over the actions of the Respondent in this matter has been established.

The uncontested evidence shows that Respondent failed to respond to the Department’s written request from the Department to provide information concerning Respondent’s Termination for Cause.

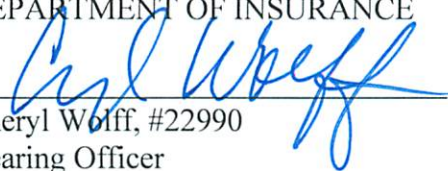
These actions constitute a violation of Neb. Rev. Stat. § 44-4059(1)(b) and (g), Neb. Rev. Stat. § 44-1524(1), and Neb. Rev. Stat. § 44-1525(11),

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be assessed an administrative penalty of \$500 and that Respondent's resident insurance producer's license be suspended until such time as the penalty amount is paid and adequate responses concerning Respondent's Termination for Cause are received by the Department. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling Respondent or the Department of Insurance to make application for such orders as may be necessary.

Dated this 5<sup>th</sup> day of November 2024.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE


  
Cheryl Wolff, #22990  
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. Eric Bender, (NAIC Producer #19317131), Cause No. A-2396.

Dated this 5th day of November 2024.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



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Eric Dunning  
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's registered address at 1323 Jackson St Apt. 111, Omaha, Nebraska 68102-2876, via certified mail, return receipt requested and via regular U.S. mail on this 5<sup>th</sup> day of November 2024.



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