

JUN 10 2015

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

NYATEN GAYE
(NAIC Producer #16555755),

RESPONDENT.

) FINDINGS OF FACT, CONCLUSIONS
) OF LAW, RECOMMENDED ORDER
) AND ORDER) CAUSE NO. A-2013
)
)
)
)
)

This matter came on for hearing on June 10, 2015, before Matthew W. 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, Robert M. Bell. Nyaten Gaye ("Respondent") was not present and was not represented by counsel. The proceedings were recorded by Brandis Courser, a licensed Notary Public. The Department presented evidence at the hearing and 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 nonresident insurance producer in the State of Nebraska whose registered business address with the Department is MetLife, 1600 Division Rd, West Warwick, RI 02893-7504 and whose registered residence address with the Department is 218 Highland Ave, Johnston, RI 02919. (Ex. 2)

3. On or about March 27, 2015, a Petition and Notice of Hearing were served upon Respondent via certified mail, return receipt requested, and via regular U.S. mail. (Ex. 1)

4. On or about May 7, 2015, a copy of the Motion for Continuance, Order Granting Motion for Continuance, Amended Petition, and Amended Notice of Hearing for this matter were served upon Respondent via certified mail, return receipt requested, and via regular U.S. mail. (Ex. 1)

5. Between May 28, 2014 and February 27, 2015, Respondent was subject to administrative action revoking Respondent's insurance producer license, or its equivalent, in the following States: Iowa, Kentucky, Washington, North Dakota, New Jersey, Arkansas, and Ohio. (Ex. 4, 5)

6. On or about June 11, 2014, Respondent was subject to administrative action suspending Respondent's nonresident insurance producer license, or its equivalent, in the State of Georgia. (Ex. 4)

7. Respondent failed to notify the Department of the adoption of the final order in any of the matters referenced in paragraphs 5 and 6 within thirty days from the date of the final order. (Ex. 2)

8. On or about March 24, 2014, Jane Francis ("Francis"), Administrator for the Consumer Affairs Division of the Nebraska Department of Insurance, mailed an inquiry to Respondent at Respondent's registered residence address via regular U.S. mail which specifically notified Respondent of the duty to respond within fifteen working days. (Ex. 3)

9. On or about April 21, 2014, Francis sent a second inquiry to Respondent at Respondent's registered business address via first class mail. (Ex. 3)

10. On or about May 20, 2014, a third inquiry was mailed to Respondent at Respondent's registered business address via certified mail. On or about May 27, 2014, the Department of Insurance received the domestic return receipt card indicating proper delivery on May 23, 2014. (Ex. 3)

11. On or about September 16, 2014, a fourth inquiry was mailed to Respondent at Respondent's registered home address, via certified mail. On or about October 15, 2014, this letter was returned to the Department marked "return to sender, unclaimed, unable to forward." (Ex. 3)

12. To date, Respondent has not responded to any of the inquiries described in paragraphs 8 through 11.

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(1)(b), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for violating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director.

4. Pursuant to Neb. Rev. Stat. § 44-4059(1)(h), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(i), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for having an insurance producer license, or its equivalent, denied, suspended, placed on probation, or revoked in Nebraska or in any other state, province, district, or territory.

6. Pursuant to Neb. Rev. Stat. § 44-4065(1), licensees must report to the director any administrative action taken against the producer in another jurisdiction within thirty days of the final disposition of the matter.

7. Pursuant to Neb. Rev. Stat. § 44-1525(11), failure "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," if committed in violation of Neb. Rev. Stat. § 44-1524, is a violation of the Nebraska Unfair Insurance Trade Practices Act.

8. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), 44-4059(1)(i), and 44-4065(1) as a result of the conduct set forth in paragraphs 5 through 7 of the Findings of Fact.

9. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), and 44-1525(11) as a result of the conduct set forth in paragraphs 8 through 11 of the Findings of Fact.

DISCUSSION

The uncontested evidence provided by the Department indicates that Respondent was subject to administrative action revoking or suspending Respondent's insurance producer license in eight other jurisdictions, and Respondent failed to report these administrative actions to the Department. Further, Respondent failed to respond to multiple inquiries from the Nebraska Department of Insurance which were sent to his registered addresses. The evidence clearly shows a


disregard for the regulation of the insurance industry. Respondent's conduct is more than sufficient to justify revocation of Respondent's nonresident insurance producer license.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska nonresident insurance producer license be revoked. 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 further orders as may be necessary.

Dated this 10th day of June, 2015.

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. Nyaten Gaye (NAIC National Producer #16555755), Cause No. A-2013.

Dated this 10 day of June, 2015.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



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's registered business address, MetLife, 1600 Division Rd, West Warwick, RI 02893-7504, via certified mail, return receipt requested and regular U.S. mail on this 10 day of June, 2015.

