

MAR 30 2016

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)
DEPARTMENT OF INSURANCE,)
)
PETITIONER,)
)
VS.)
)
DAVID KUSEK,)
(NAIC National Producer #10176342))
)
RESPONDENT.)

CONSENT ORDER

IDENTIFIER # 10176342

AMOUNT \$ 500. -

CAUSE NO. A-2035

MAR 31 2016

DISTRIBUTION # 21342187

CHECK # 1928

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Robert M. Bell, and David Kusek ("Respondent") mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. § 44-101.01 and the Insurance Producers Licensing Act, Neb. Rev. Stat. §§ 44-4047 to 4067.

2. Respondent is a licensed insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a Petition and Notice of Hearing captioned State of Nebraska Department of Insurance vs. David Kusek, Cause No. A-2035, on March 7, 2016.

2. The Department mailed a copy of the Petition and Notice of Hearing to the business and home address Respondent registered with the Department, 8755 Osborne Drive West, Hastings, NE 68901, by certified mail, return receipt requested and via email to

Respondent's registered business email address kusekins@yahoo.com. Respondent received a copy of the Petition and Notice of Hearing.

3. The Petition alleges that Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(e) and 44-4059(1)(h) as follows:

- a. On or about August 12, 2015, Respondent provided Houlden Remodeling with a Certificate of Liability Insurance indicating that Ruben's Roofing, a subcontractor of Houlden Remodeling, had effective workers' compensation insurance placed through Travelers Property Casualty Company of America ("Travelers").
- b. On or about September 15, 2015, Stan Houlden, owner of Houlden Remodeling, filed a complaint against Respondent, alleging that Respondent had falsified the Certificates of Insurance related to Houlden Remodeling's subcontractor Ruben's Roofing, owned by Ruben Gamero.
- c. On or about September 29, 2015, Respondent responded to a letter of inquiry related to Mr. Houlden's complaint from Jeanette McArthur, an Insurance Investigator with the Consumer Affairs Division of the Department, indicating that he had generated a Certificate of Insurance on August 11, 2015, at the request of Mr. Gamero, knowing from Travelers that a policy had not been issued.
- d. On or about October 13, 2015, Travelers responded to a letter of inquiry related to Mr. Houlden's complaint from Ms. McArthur indicating that while Travelers had received a new business application from Mr. Gamero, coverage could not be bound. Travelers indicated in the correspondence that this information was provided to Respondent

4. The Petition alleges that Respondent violated Neb. Rev. Stat. § 44-4054(8) as follows:

- a. On or about April 28, 2015, Respondent renewed his insurance producer license via the National Insurance Producer Registry (NIPR) and indicated his business address as 8755 Osborne Drive West, Hastings, NE 68901.
- b. On or about September 29, 2015, Respondent replied to an inquiry to Ms. McArthur stating that his office location was 112 Plum Street, Doniphan, NE 68832.
- c. As of March 4, 2016, Respondent has not informed the Department of a change of business address.

5. Respondent was informed of his right to a public hearing. Respondent waives that right and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

6. Respondent admits to the allegations alleged in paragraph 3 and 4.

CONCLUSIONS OF LAW

Respondent violated Neb. Rev. Stat. §§ 44-4054(8), 44-4059(1)(e), and 44-4059(1)(h) and is subject to disciplinary action pursuant to Neb. Rev. Stat. § 44-4054 and 44-4059.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by the Respondent, David Kusek, that:

1. Respondent shall pay an administrative penalty of \$500 within thirty (30) day of the date that this consent order is signed by the Director or his designee.
2. On or before the date the Director of Insurance or his designee approves and signs this consent order, Respondent shall update his registered business address via the NIPR. *submitted change request 3-18-16*
3. On or before the date the Director of Insurance or his designee approves and signs this consent order, Respondent shall provide the Department with written documentation of a procedure that will be followed in the Respondent's agency to prevent the issuance of false Certificates of insurance. *INCLUDED*

4. Respondent will attend and complete at least three (3) hours of Department approved education on insurance industry ethics within sixty days of the date the Director or his designee signs and approves this consent order. The three (3) hours agreed to will not count toward Respondent's continuing education requirements under Neb. Rev. Stat. § 44-3901 et. seq. *completed 3-18-16*
5. If Respondent fails to comply with any terms of the Consent Order, Respondent's insurance producer license shall be automatically revoked.

In witness of their intention to be bound by this Consent Order, the parties have executed this document by subscribing their signatures below.

Robert M Bell

Robert M. Bell, #22390
Attorney for Petitioner
941 O Street, Suite 400
Lincoln, NE 68508
402-471-4650

3/30/2016

Date

David Kusek

David Kusek
Respondent

3-29-16

Date

STATE OF NEBRASKA)
) ss.
COUNTY OF Lancaster)

On this 29 day of March, 2016, David Kusek personally appeared before me and read this Consent Order, executed the same, and acknowledged the same to be his voluntary act and deed.



Brandis J. Courser
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of the State of Nebraska Department of Insurance v. David Kusek, NAIC National Producer #10176342, Cause No. A-2035.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Ramge
BRUCE R. RAMGE
Director of Insurance

3-30-2016
Date

CERTIFICATE OF SERVICE

I hereby certify that fully executed copies of this Consent Order were served upon Respondent as follows:

Via Regular and Certified Mail
David Kusek
8755 Osborne Drive West
Hastings, NE 68901

On this 1 day of April, 2016.

Brandis J Courser