

NOV 14 2017

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	FILED
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, RECOMMENDED ORDER
PETITIONER,)	AND ORDER
)	
VS.)	CAUSE NO. A-2087
)	
MANDY L. FAIR)	
(NAIC National Producer #18417355),)	
)	
RESPONDENT.)	

This matter came on for hearing on November 2, 2017, 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, Krystle Ledvina Garcia. Mandy L. Fair (“Respondent”) was not present and was not represented by counsel. The proceedings were recorded by Brandis Bauer 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 resident insurance producer in the State of Nebraska whose registered business and residence address with the Department is 205 Yellowstone Ave, Alliance, NE 69301. (See Ex. 2)

3. On or about September 25, 2017, the Petition and Notice of Hearing were properly served upon Respondent by mailing the same to her registered business and residence address via certified mail return receipt requested, and via regular U.S. mail. (See Ex. 1).

4. On or about August 31, 2006, Respondent was convicted in the County Court of Box Butte County in case CR 06-86 for Attempt of a Class 3A or Class 4 Felony, a Class 1 Misdemeanor. (See Ex. 2 and 3).

5. On or about April 14, 2011, Respondent was convicted in the County Court of Lancaster County in case CR 09-19611 for Issue Bad Check-less than \$100, a Class 2 Misdemeanor, and Failure to Appear or Comply with Citation, a Class 3 Misdemeanor. (See Ex. 2 and 3).

6. On or about May 22, 2017, Respondent submitted an application to the Nebraska Department of Insurance for a Nebraska resident producer license. On this application, Respondent answered “no” to background question 1A, indicating she had never been convicted of a misdemeanor. Subsequently, the Department of Insurance issued a Nebraska resident producer license to the Respondent. (See Ex. 2).

7. On or about June 13, 2017 and July 13, 2017, after discovering facts about Respondent’s criminal history, the Department of Insurance sent written inquiries to Respondent for additional information related to her misdemeanor convictions. Respondent did not respond to either inquiry within fifteen working days. (See Ex. 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(1), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for any one or more of the following causes: (a) providing incorrect, misleading, incomplete, or materially untrue information in the license application; (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; (g) having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud; or (h) using fraudulent, coercive, or dishonest practices, or demonstrative incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

4. Pursuant to Neb. Rev. Stat. § 44-1525(11), licensees must respond to written inquiries from the Department of Insurance within fifteen working days of receipt.

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

DISCUSSION

The Department provided sufficient evidence to show that reasonable notice of these proceedings was provided to Respondent. The uncontested evidence provided by the Department indicates that Respondent has been convicted of multiple misdemeanors and that Respondent failed to disclose these convictions on her licensing application. The evidence further shows that Respondent failed to respond to multiple Department inquiries asking for more details of her misdemeanor convictions. Failure to disclose convictions on the licensing application is indicative of untrustworthiness and a willingness to deceive the Department. Respondent's failure to respond to the Department's inquiries or to appear in this hearing indicates that she is not interested in


maintaining her producer license. These violations are more than sufficient to justify revocation of Respondent's Nebraska resident insurance producer license. In light of the violations described above, the Hearing Officer hereby recommends that Respondent's resident insurance producer license be revoked.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska resident 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 14th day of November, 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. Mandy L. Fair (NAIC National Producer #18417355), Cause No. A-2087.

Dated this 14 day of November, 2017.

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 residence and business address, 205 Yellowstone Avenue, Alliance, NE 69301, via certified mail, return receipt requested and regular U.S. mail on this 14 day of November, 2017.

