

JUN 11 2018

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

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| STATE OF NEBRASKA |) | |
| DEPARTMENT OF INSURANCE, |) | |
| |) | FINDINGS OF FACT, |
| PETITIONER, |) | CONCLUSIONS OF LAW, |
| |) | RECOMMENDED ORDER AND |
| VS. |) | ORDER |
| |) | |
| CRYSTAL LESSERT |) | CAUSE NO. A-2096 |
| (NAIC National Producer #8039364), |) | |
| |) | |
| RESPONDENT. |) | |

This matter came on for hearing on May 8, 2018, before Laura L. Arp, 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 Bell. Respondent Crystal Lessert was not present and was not represented by an attorney. The proceedings were recorded by Brandis Bauer, a licensed Notary Public. Exhibits 1 through 5 were received, and the matter was taken under advisement. As a result of the hearing and evidence, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer. Respondent’s registered home and business address with the Department is 235 E. Charles Street, Morrill, NE, 69358, and Respondent’s registered business and individual email addresses with the Department are crystallessert@gmail.com and crystal.writer@hotmail.com. (E3).

2. The Department of Insurance is the duly designated agency of the State of Nebraska empowered to exercise jurisdiction and control over the licensing of insurance agents in Nebraska pursuant to Neb. Rev. Stat. § 44-101.01 and § 44-4047 et seq. Said jurisdiction and control have been present at all times material hereto.

3. The Petition and Notice of Hearing in this matter were served upon Respondent at her registered mailing and email addresses, and also to Respondent's more recent address as disclosed by the U.S. Postal Service of 1740 13th Street, Gering, NE, 69341-4114. Certified mail to the last known address, giving notice of the continued hearing date of May 8, 2018, was returned as delivered. (E2).

4. On or about October 9, 2015, Respondent, who was employed by Lessert Insurance Agency, was contacted by James Cannia to discuss commercial liability quotes Respondent had obtained from United States Liability Insurance Company ("USLI") and Admiral Insurance ("Admiral"). Mr. Cannia requested a certificate of liability insurance be issued by USLI indicating that coverage was pending. Respondent provided the certificate even though coverage was not bound and premium was not collected. (E4).

5. On or about December 29, 2015, Respondent was again contacted by Mr. Cannia requesting a certificate of liability coverage for a job, and also requesting errors and omissions coverage. Respondent indicated that USLI did not offer errors and omissions coverage, so Respondent attempted to bind coverage through Admiral. Respondent created a generic policy number and fabricated an effective date of October 9, 2015 through October 9, 2016 for the certificate. Mr. Cannia issued a premium check to Respondent pending an invoice from Admiral, which was deposited into the agency's premium account. Coverage was never bound. (E4).

6. On or about May 19, 2016, Mr. Cannia contacted the Lessert Insurance Agency seeking a certificate of liability coverage for a job involving a company called MWH Americas. Respondent was out of the office; however, Respondent assured Kim Lessert, another insurance producer with Lessert Insurance Agency, that coverage was bound through Admiral. Relying on this information, Kim Lessert issued the certificate. (E4).

7. In or about July 2016, MWH Americas contacted Admiral to confirm that coverage existed. When MWH Americas learned that coverage did not exist, it contacted Mr. Cannia who

contacted Kim Lessert. At that time, Kim Lessert learned that Respondent had not bound coverage. (E4).

8. In or about August 2016, Kim Lessert was contacted by Kuldip Sigh. Mr. Sigh informed Kim Lessert that Respondent had provided him with a policy from Lloyd's of London with a declaration page indicating coverage from March 15, 2016 to March 15, 2017. Mr. Sigh had learned that the coverage had in fact lapsed in March 2015. (E4).

9. On or about August 9, 2016, Respondent was terminated by Lessert Insurance Agency for failure to bind coverage when she had indicated to the consumers that coverage had been bound. After termination, Kim Lessert found altered documents related to Mr. Sigh's Lloyd's of London policy in Respondent's desk. Kim Lessert informed the Department of both the termination of Respondent and the facts behind the termination. (E4).

10. On or about September 29, 2016, Respondent was interviewed by Kim Church, an Insurance Fraud Investigator employed by the Department. In that interview, Respondent admitted to altering insurance documents related to Mr. Cannia and Mr. Sigh to allow them both to believe that coverage had been bound when in fact it had not been bound. (E4).

11. On or about March 21, 2017, Respondent waived appearance and pled guilty in the County Court of Scotts Bluff County to the offense of Wanton Needless Waste, a Class III Misdemeanor. Respondent was sentenced to a \$150 fine, liquidated damages of \$2,000 and court fees. (E5).

12. On or about June 7, 2017, Respondent submitted a renewal application for a resident insurance producer license with the Department. Respondent answered "no" to Question 1a, "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to this insurance department?" (E3).

13. The Department's Producer Licensing Division Administrator reviewed Department records, and as of May 8, 2018, Respondent had not reported the Scotts Bluff County criminal action to the Department. (E3).

14. On or about April 16, 2015, a Consent Order was entered in Department Cause No. A-2009, in which Respondent agreed to pay \$1,000 for failing to respond to Department inquiries. (E1).

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance 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 of Insurance may revoke an insurance producer's license for any one or more of the following: (a) providing incorrect, misleading, incomplete, or materially untrue information in a 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, (e) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance, (f) having been convicted of a felony or a Class I, II, or III misdemeanor, or (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

4. Pursuant to Neb. Rev. Stat. § 44-4065(3), an insurance producer is required to report to the Director "within thirty days of the date of arraignment or date of waiver of arraignment, if waived, ... any criminal prosecution of the producer taken in any jurisdiction."

5. Respondent's failure to report the Scotts Bluff County prosecution within thirty days, as described in the Findings of Fact above, is a violation of Neb. Rev. Stat. § 44-4065(3).

6. Respondent's misconduct as described in the Findings of Fact above violated Neb. Rev. Stat. §§ 44-4059(1)(a), (b), (e), (f) and (h).

7. Respondent's misconduct is sufficient grounds to revoke Respondent's Nebraska insurance producer's license.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer license be revoked.

Dated this 11th day of June, 2018.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



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 final Order of this Department in the matter of the State of Nebraska Department of Insurance v. Crystal Lessert, Cause No. A-2096.

Dated this 11 day of June, 2018.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



BRUCE R. RAMGE
DIRECTOR OF INSURANCE

CERTIFICATE OF SERVICE

I hereby certify that on this 11 day of June, 2018, a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon Respondent by mailing a copy by certified mail, return receipt requested, to Respondent's last known address, the only address at which Respondent has signed a return receipt for certified mail: 1740 13th Street, Gering, NE, 69341-4114.

Brandis Bauer