

OCT 09 2018

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-2127
)	
PAUL MCCASKILL,)	
(NAIC Producer #18624531),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on September 18, 2018, before Robert E. Harkins, 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, Krystle Ledvina Garcia. Paul McCaskill ("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 non-resident insurance producer in the State of Nebraska whose current registered business and home address with the Department is 1023 Ridgeview Circle, Carrollton, TX 75007. (See Ex. 2, Attachment 1).

3. On or about August 17, 2018, the Petition and Notice of Hearing was served upon Respondent by mailing the same to his registered business and home address, by certified mail return receipt requested, and via regular U.S. mail. (See Ex. 1).

4. To date, the return receipt card attached to the Petition and Notice of Hearing has not been returned to the Department. (See Ex. 1).

5. The Petition and Notice of Hearing sent to Respondent's registered business and residence address via regular U.S. mail has not been returned to the Department, nor has the Department received notification that the correspondence was undeliverable. (See Ex.1).

6. On or about February 26, 2018, Respondent applied for a Nebraska non-resident insurance producer license. Respondent indicated on the licensure application that he had been convicted of a misdemeanor. Respondent also revealed that at the time of his application, he had a pending felony drug possession charge in Texas. (See Ex.2, Attachment 2).

7. On or about March 12, 2018, Respondent was issued a Nebraska non-resident insurance producer license. (See Ex. 2, Attachment 1).

8. On or about April 23, 2018, the Indiana Commissioner of Insurance issued an Order and Notice of License Denial (Case No. 17035-AD 18-0403-036) regarding Respondent's application for a non-resident insurance producer license in Indiana. Respondent's application was denied for failing to provide documentation regarding his pending felony drug possession charge in Texas. (See Ex. 2, Attachment 6).

9. Respondent failed to report the Indiana administrative action to the Department within thirty days. (See Ex. 2).

10. On or about April 30, 2018, the Department sent a written inquiry via regular U.S. mail to Respondent's registered business and residence address requesting additional information

regarding his pending felony charge. The Department requested a response within fifteen (15) working days. The written inquiry was not returned to the Department, and Respondent failed to respond to said inquiry. (See Ex. 2, Attachment 3).

11. On or about May 31, 2018, the Department sent a second written request for information regarding the felony charge via certified mail, return receipt requested. The Department requested a response within fifteen (15) working days. The return receipt card was subsequently returned to the Department confirming delivery. Respondent failed to respond to this inquiry. (See Ex. 2, Attachment 4, Attachment 5).

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. §§ 44-1525(11) and 44-1524, failure of an insurer, upon receipt of a written inquiry from the department, to respond to such inquiry within fifteen working days shall be an unfair trade practice if the act or practice is committed flagrantly and in conscious disregard of the Unfair Trade Practices Act or has been committed with such frequency to indicate a general business practice to engage in that conduct.

4. Pursuant to Neb. Rev. Stat. §44-1529, the Director may revoke or suspend an insurer's license who has engaged in an unfair trade practice.

5. 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.

6. Pursuant to Neb. Rev. Stat. § 44-4059(1)(g), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for admitting or been found to have committed any insurance unfair trade practice.

7. 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.

8. 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 license denied or revoked in any other state, province, district, or territory.

9. Pursuant to Neb. Rev. Stat. §44-4065(1), "an insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction, by a professional self-regulatory organization such as the Financial Industry Regulatory Authority or a similar organization, or by another governmental agency within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents."

10. Respondent violated Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-4059(1)(i), and 44-4065(1), as a result of the conduct set forth in paragraphs 8 through 11 of the Findings of Fact.

DISCUSSION

The uncontested evidence shows that Respondent's application for licensure in the State of Indiana was denied, and that Respondent failed to report this denial to the Department. The uncontested evidence also shows that Respondent failed to respond to two inquiries from the Department seeking additional information regarding a serious felony charge. Respondent's repeated failure to reply to inquiries from the Department is sufficient to show that his lack of response was committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act. Respondent's failure to respond to the Department's inquiries, and his failure to report the administrative action in Indiana, is deeply troubling and demonstrates a disturbing level of dishonesty and untrustworthiness. Based on the serious nature of the evidence presented, revocation of Respondent's non-resident insurance producer license is appropriate in this case.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska non-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 5th day of October, 2018.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE




Robert E. Harkins
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. Paul McCaskill (NAIC Producer #18624531), Cause No. A-2127.

Dated this 5 day of October, 2018.

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 and residence address, 1023 Ridgeview Circle, Carrollton, TX 75007, via certified mail, return receipt requested and via regular U.S. mail on this 9 day of October, 2018.



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