

MAR 27 2020

BEFORE THE DEPARTMENT OF INSURANCE STATE OF NEBRASKA

FILED

STATE OF NEBRASKA DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

AMOGH KARNEY, (NAIC Producer #18000011),

RESPONDENT.

FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDED ORDER AND ORDER

CAUSE NO. A-2205

This matter came on for hearing on March 26, 2020, 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, Tracy Burns. Amogh Karney ("Respondent") was not present and was not represented by counsel. The proceedings were recorded by Shelly Storie, 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 resident insurance producer, whose license expired on September 30, 2019. Respondent's registered residence address with the Department is 3913 S. 184th St., Omaha NE 68114. Respondent's registered business address with the Department is 9300 Underwood Ave., Suite 500, Omaha NE 68114. (Ex. 2, Attachment 1)
3. On or about January 9, 2020, the Petition and Notice of Hearing was served upon Respondent by mailing the same to his registered business and home addresses, by certified mail return receipt requested, and via regular U.S. mail. (Ex. 1)

4. On or about January 13, 2020, the Petition and Notice of Hearing mailed to Respondent via certified mail at his residence address was delivered, as shown by United States Postal Service ("USPS") records. (Ex. 1, Attachment 1)

5. On or about January 15, 2020, the signed Domestic Return Receipt attached to the Petition and Notice of Hearing mailed to Respondent's business address was returned to the Department by the USPS, confirming delivery. (Ex. 1, Attachment 2)

6. On or about July 30, 2019, the Department received notice from Northwestern Mutual Life Insurance Company ("NMLIC") that Respondent's appointment with NMLIC had been terminated on July 2, 2019 for cause because, among other things, Respondent:

- a. "admitted to having taken funds from a customer with the intention of investing them in a private securities transaction";
- b. "comingled personal funds with customer funds in an investment account";
and
- c. "made trades on behalf of a customer inside an undisclosed investment account." (Ex. 2, Attachment 2)

7. When NMLIC met with the Respondent to discuss the activities of the Respondent, Respondent showed untruthfulness in his response in that Respondent's statements were contradicted by the content of the emails he sent to other parties. (Ex. 3, Attachment 3)

8. When recommending a life insurance product to customers, Respondent misrepresented the policy premiums and dishonestly told customers that the policy "was tied to the stock market." (Ex/ 3. Attachment 3)

9. On or about August 1, 2019, Bruce Eigsti, an insurance investigator employed by the Department's Consumer Affairs Division, sent a letter to Respondent ("Letter 1") at his registered

residence address by First Class United States Mail, requesting a response to the allegations forwarded to Petitioner by NMLIC. No response was ever received by the Respondent and the letter was not returned to the Department as undeliverable by the post office. (Ex. 3, Attachments 1 and 2)

10. On or about August 30, 2019, Mr. Eigsti sent a follow up letter to Respondent ("Letter 2") at the Respondent's registered business/mailing address by certified mail, return receipt requested. This Letter 2 again requested information related the allegations forwarded by NMLIC to the Respondent and informed Respondent that failure to respond within fifteen working days may be construed as an unfair trade practice. (Ex. 3, Attachment 4)

11. The domestic return receipt was returned to the Department by the USPS confirming delivery of Letter 2 on September 3, 2019. To date, the Department has not received a response from Respondent for either Letter 1 or Letter 2. (Ex. 3, 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. Pursuant to Neb. Rev. Stat. §44-4059(5), "the Director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing Act against any person who is under investigation for or charged with a violation of the act even if the person's license or registration has been surrendered or has lapsed by operation of law."

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)(d), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.

5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(e), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

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 having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud.

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. § 44-1525(1)(f), if committed in violation of § 44-1524, making, issuing, circulating or causing to be made any estimate, illustration, circular statement, sales presentation, omission or comparison which misrepresents for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion, or surrender of any policy, including intentionally misquoting any premium rate constitutes an unfair insurance trade practice.

9. Pursuant to Neb. Rev. Stat. § 44-1525(10), if committed in violation of § 44-1524, making false or fraudulent statements or representations on or relative to an application for a policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual person constitutes an unfair insurance trade practice.

10. 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

11. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(d), 44-4059(1)(e), 44-1525(l)(f), 44-4059(1)(g), 44-4059(1)(h), 44-1525 (10), and 44-1525(11), as a result of the conduct set forth in paragraphs 6 through 11 of the Findings of Fact.

DISCUSSION

The Department presented sufficient evidence to show Respondent received proper notice of these proceedings. The uncontested evidence conclusively shows Respondent failed to respond to several Department inquiries regarding his unprofessional and fraudulent conduct. The evidence conclusively shows that Respondent received Letter 2, and Letter 1 has never been returned to the Department. 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.

The evidence also establishes the shockingly fraudulent and dishonest conduct which was the subject of Petitioner's unanswered inquiries. Respondent compounded his underlying wrongdoing by lying to NWMLIC investigators regarding his activities. Respondent's actions demonstrate a high level of fraudulent, dishonest, and untrustworthy conduct incompatible with the high ethical and moral standards required of an insurance producer.

Based on the serious nature of the evidence presented, and considering the totality of the circumstances involved, revocation of Respondent's resident insurance producer license is appropriate in this case. Said revocation is permissible under Nebraska statutes even when, as here, Respondent's license had previously expired.

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 26th day of March, 2020.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



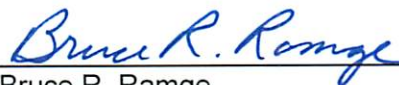
Robert E. Harkins
Hearing Officer

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. Amogh Karney (NAIC Producer #18000011), Cause No. A-2205.

Dated this 27 day of March, 2020.

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 home addresses, 9300 Underwood Ave., Suite 500, Omaha NE 68114, and 3913 S. 184th St., Omaha NE 68114, via certified mail, return receipt requested and via regular U.S. mail on this 27th day of March, 2020.

Shelley Storie