

OCT 20 2020

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-2230
)	
DUSTIN FRENCH,)	
(NAIC Producer #17200690),)	
)	
RESPONDENT.)	

This matter came on for hearing on October 13, 2020, before Thomas C. Green II, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) appeared through its counsel, Michael W. Anderson. Dustin French (“Respondent”) did not appear and was not represented by counsel. The proceedings were recorded by Shelly Storie, a licensed Notary Public. The Department offered Exhibits 1 through 3 at the hearing, which were received without objection, 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 non-resident insurance producer whose license expired on February 29, 2020. Respondent’s registered residence business and home address with the Department is 601 N. 8th Street, Red Oak, IA 51566. (Ex. 2).

3. On or about September 3, 2020, 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. On that same date, copies of the Petition and Notice of Hearing were also sent via certified mail, return receipt requested and regular U.S. mail to Respondent at 109 East Reed Street, Red Oak, IA 51566 (“Reed Street Address”), which is an address provided by the Respondent to the Department’s counsel in a telephone conversation. (Ex. 3)

4. On or about September 8, 2020, the Domestic Return Receipt attached to the Petition and Notice of Hearing mailed to the Reed Street Address was returned to the Department by the United States Postal Service (“USPS”) evidencing delivery. (Ex.3, Attachment 1)

5. On or about September 11, 2020, the Petition and Notice of Hearing sent via certified mail and regular U.S. mail to the Respondent’s registered business and home address were returned to the Department marked “Return to Sender, Vacant, Unable to Forward.” (Ex 3, Attachments 2 and 3)

6. On or about November 13, 2019, the Department was notified that American Family Life Assurance Company of Columbus (“Aflac”) had terminated the Respondent’s appointment after its special investigation unit completed an investigation of the Respondent’s business practices. The results of the investigation supported a finding that the Respondent: (a) provided his own email address on 35 separate applications for insurance rather than the email addresses of insureds; and (b) filed eighteen fraudulent claims on his cancer insurance policies, for which Respondent received \$1,800 in benefits (Ex 1, Attachments 1 and 2).

7. On or November 18, 2019, the Department sent correspondence to the Respondent, at his registered business and residence address on file with the Department, requesting a response within fifteen days to the allegations set forth in the letter received from Aflac (Ex. 1, Attachment 3).

8. The Respondent never provided any response to the Department's November 18, 2019 letter (Exhibit 1).

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. 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.

3. The Department has personal jurisdiction over Respondent.

4. 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.

5. 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.

6. Pursuant to Neb. Rev. Stat. §44-1524, it shall be an unfair trade practice in the business of insurance for any insurer to commit any act or practice defined in section 44-1525 if the act or

practice is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act.

7. Pursuant to Neb. Rev. Stat. §44-1525(11), it shall be an unfair trade practice in the business of insurance, upon written inquiry from the department, to fail to respond to such inquiry or request additional reasonable time to respond within fifteen working days.

8. Pursuant to Neb. Rev. Stat. §44-4054(8), licensees shall inform the director by any means acceptable to the director of a change in the legal name or address within thirty days after the change. Any person failing to provide such notification shall be subject to a fine by the director of not more than five hundred dollars per violation, suspension of the person's license until the change of address is reported to the director, or both.

9. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), 44-1524, 44-1525(11) and 44-4054(8), as a result of the conduct set forth in paragraphs 5 through 7 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 repeatedly and deliberately submitted fraudulent claims under his cancer insurance policies, resulting in Respondent improperly receiving \$1,800 from Aflac. Respondent's fraudulent actions were committed flagrantly and in conscious disregard of Nebraska law. 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.

In addition to the above issues, the Respondent failed to respond to an inquiry from the Department within the statutory deadline of fifteen working days and failed to notify the Department that he had changed his address.

Based on the serious nature of the evidence presented, and considering the totality of the circumstances involved, 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 19th day of October, 2020.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Thomas C. Green II
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. Dustin French (NAIC Producer #17200690), Cause No. A-2230.

Dated this 20 day of October, 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 address, 601 N. 8th Street, Red Oak, IA 51566 and to 109 East Reed Street, Red Oak, IA 51566, via regular U.S. mail on this 20th day of October, 2020.


