

DEC 15 2020

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PETITIONER,)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	CAUSE NO. A-2236
Francisco Lopez,)	
(NAIC Producer #16577813),)	
)	
RESPONDENT.)	

This matter came on for hearing on December 8, 2020, before Tracy A. Burns, 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, Michael W. Anderson. Francisco Lopez ("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 licensed non-resident insurance producer in the State of Nebraska whose registered business and residence address is 401 Northwest Highway, Apartment 4150, Irving, Texas 75039-4198. (See Ex. 2, Attachment 1).

3. On or about October 27, 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. (See Ex. 3).

4. On or about November 13, 2020, the Petition and Notice of Hearing sent to Respondent's registered business and home address via certified mail and first class mail was returned to the Department marked "Return to Sender, Insufficient Address, Unable to Forward." (See Ex. 3).

5. On or about June 29, 2020, the Department received notice from Allstate Insurance Company ("Allstate") that Respondent's appointment was terminated for cause effective on or about June 17, 2020, for binding without consent. (See Ex. 1, Attachment 1).

6. On or about June 29, 2020, the Department received documents from Allstate that provided a detailed explanation of Respondent's termination for cause. The documents included a recording of Respondent's and customer's telephone conversation related to the policy requested; the Allstate termination request with the investigation summary and supporting documents; the customer's e-mail requesting cancellation of policies because he was quoted for policies "totally different" than what he wanted to purchase; and the policy Respondent submitted for the customer. (See Ex. 1, Attachments 2, 3, 4 and 5).

7. On or about July 16, 2020, Nate Dobler, an investigator with the Department's Consumer Affairs Division, sent a letter via certified mail with return receipt requested to Allstate Insurance Company, 8711 Freeport Parkway, # 29, Irving, Texas 75068-2578. The letter requested a response to the termination for cause notice and informed Respondent that Nebraska insurance laws require an adequate response within fifteen working days. (Ex. 1, Attachment 6).

8. On or about July 21, 2020, the certified mail receipt was returned to the Department showing delivery of the July 16, 2020 letter. (Ex. 1, Attachment 7).

9. As of December 2, 2020, no response was received from the Respondent.

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)(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.

4. 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.

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. §§ 44-1525(11) and 44-1524(1), 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.

7. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(e), 44-4059(1)(g), 44-4059(1)(h); 44-1524(1) and 44-1525(11), as a result of the conduct set forth in paragraphs 5 and 6 of the Findings of Fact.

DISCUSSION

At the hearing, the Department presented sufficient evidence of its attempts to provide the Respondent with notice of these proceedings. The Department attempted to serve Respondent via certified mail, return receipt requested and regular U.S. mail to Respondent's registered business and home address. Based upon this evidence, the Department's attempts to serve Respondent was sufficient and jurisdiction over the actions of the Respondent in this matter has been established.

The uncontested evidence shows that Respondent was terminated for cause by Allstate Insurance Company for binding without consent. The Respondent caused the customer to be bound to policies not requested by the customer. Further, the customer was not aware of either policy until receiving a statement via e-mail. Respondent failed to identify the renter's policy separately from the auto policy. This action misrepresents the insurance contract the customer thought he purchased and constitutes a violation of Neb. Rev. Stat. §§ 44-4059(1)(e).

Additionally, after receiving the information on the policies, the customer contacted Allstate and stated that he was quoted for "something totally different." Respondent did not

bind the insurance policy requested by the customer and added a policy to the customer's order without customer's consent and knowledge. These actions demonstrate coercive and dishonest practices on behalf of the Respondent and constitute a violation of Neb. Rev. Stat. § 44-4059(1)(h).

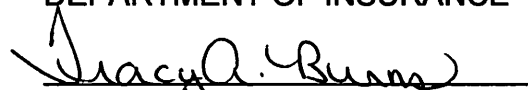
Finally, Respondent failed to respond to the Department's initial request for information within fifteen working days of the inquiries which constitutes violations of Neb. Rev. Stat. §§ 44-1524(1); 44-1525(11) and 44-4059(1)(g) .

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be required to pay a fine in the amount of one thousand dollars (\$1,000) within ninety (90) days of the issuance of this Order. If Respondent fails to pay the fine within the defined time, Respondent's producer license shall be suspended until he pays the administrative fine and Respondent's address is updated. 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 orders as may be necessary.

Dated this 15th day of December, 2020.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Tracy A. Burns
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. Francisco Lopez (NAIC Producer #16577813), Cause No. A-2236

Dated this 15 day of December, 2020.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Bruce R. Rame
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, 401 Northwest Highway, Apartment 4150, Irving, Texas 75039-4198 via certified mail, return receipt requested and via regular U.S. mail on this 15th day of December, 2020.