

NOV 13 2020

BEFORE THE DEPARTMENT OF INSURANCE STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	CONSENT ORDER
PETITIONER,)	
)	
VS.)	CAUSE NO. A-2237
)	
Mark Munger)	
(NAIC National Producer #15838770))	
)	
RESPONDENT.)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Tracy A. Burns, and Mark Munger ("Respondent") mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. § 44-101.01 and the Insurance Producers Licensing Act, Neb. Rev. Stat. §§ 44-4047 to 4067.

2. Respondent has been a licensed insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a Petition and Notice of Hearing captioned State of Nebraska Department of Insurance vs. Mark Munger (NAIC National Producer #), Cause No. A-2237, on October 28, 2020.

2. The Department mailed a copy of the Petition and Notice of Hearing to the business address Respondent registered with the Department, and to the home address Respondent registered with the Department, by certified mail, return receipt requested. Respondent received a copy of the Petition and Notice of Hearing.

3. The Petition alleges that Respondent violated Neb. Rev. Stat. §§

RECEIVED

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44-1525(11), 44-4059(1)(b), 44-4059(1)(e); 44-4059(1)(g), and 44-4059(1)(h) as follows:

- a. On or about December 5, 2018, Respondent presented himself, unannounced, at the complainant's home stating he wanted to help complainant and her husband with supplemental insurance. Respondent did not have an appointment, and he was not complainant's insurance agent. Medicare Communications and Marketing Guidelines states that agents may not use door-to-door solicitation when selling Medicare Advantage Plans.
- b. Complainant stated that Respondent showed her a sheet of paper with other persons' names and addresses. Complainant's name, address and contact information was on that sheet of paper in bold letters. Respondent knew their insurance information which included a Medicare Supplement, Plan F policy. Respondent provided pre-filled papers that Complainant believed would change her and her husband's Part D plan but later learned it was for Medicare Advantage.
- c. In order to qualify for Medicaid, Complainant was required to participate in a spenddown of her assets. The spenddown was coordinated with a Medicare Supplement premium.
- d. On or about December 21, 2018, Respondent returned to the complainant's home to change the Medicaid spenddown by offering a cancer policy.
- e. After the appointments and Complainant's calls to Respondent stating she wanted to cancel the new plan, the Complainant began to receive letters regarding that plan. Complainant also learned she no longer had coverage under the Wellcare drug plan because of the Medicare Advantage plan.
- f. On or about December 24 and December 27, 2018, Complainant talked to the Nebraska Senior Health Insurance Information Program volunteer and the volunteer was able to return Complainant to her original insurance that included the prescription drug coverage.
- g. On or about December 25, 2018, Complainant telephoned Respondent, left a message that cancelled an appointment and informed Respondent that she did not want the United Health Care Dual plan.
- h. On or about March 17, 2019, Complainant filed a consumer complaint with the Petitioner stating the reasons for the complaint were: agent handling; delays/no response; and misrepresentation.
- i. On or about March 19, 2019, the Respondent was forwarded an inquiry regarding the complaint and a copy of the complaint via electronic mail. Response was received on April 8, 2019, however, it did not explain how Respondent received Complainant's information.
- j. On or about April 9, 2019, a follow-up request was made requesting a complete response to the March 19, 2019 request for information. On or about April 11, 2019, Respondent replied with an answer and final response stating, "This was

not a generated lead, so I believe that the rest of your questions relating to leads may not apply.”

- k. On or about April 15, 2019, a third e-mail was sent to Respondent to obtain previously requested information. The e-mail stated a complete and accurate response is required according to Neb. Rev. Stat. § 44-1525(11).
- l. Respondent failed to respond to e-mail correspondence dated April 15, 2019 and this necessitated a certified letter containing copies of all correspondence previously mailed on May 15, 2019. The correspondence also noted that failure to respond within 15 working days is a violation of the Nebraska Unfair Trade Practices. Respondent replied to this request on June 3, 2019.

4. Respondent was informed of his right to a public hearing. Respondent waives that right and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent neither admits nor denies the allegations alleged in paragraph 3.

CONCLUSIONS OF LAW

Respondent’s conduct as alleged above constitutes violations of Neb. Rev. Stat. §§ 44-44-1525(11), 44-4059(1)(b), 44-4059(1)(e); 44-4059(1)(g), and 44-4059(1)(h) and is subject to disciplinary action pursuant to Neb. Rev. Stat. § 44-4059.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by the Respondent, Mark Munger, that:

Respondent shall pay an administrative fine in the amount of one thousand dollars (\$1,000) due within 60 days after the Director of Insurance or his designee approves and signs this consent order. If Respondent fails to pay the amount required under this consent order within the time specified, Respondent’s insurance producer license shall automatically be revoked.

In witness of their intention to be bound by this Consent Order, the parties have executed this document by subscribing their signatures below.

Tracy A. Burns

Tracy A. Burns, #25398
Attorney for Petitioner
1135 M Street, Suite 300
Lincoln, NE 68508
402-471-2201

Mark Munger

Mark Munger
Respondent

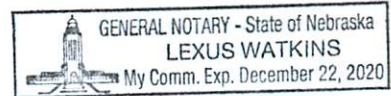
Nov. 12, 2020
Date

11-9-2020
Date

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On this 9 day of November, 2020, Mark Munger personally appeared before me and read this Consent Order, executed the same, and acknowledged the same to be his voluntary act and deed.

Lexus Watkins
Notary Public



CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of the State of Nebraska Department of Insurance v. Mark Munger, NAIC National Producer Number #Number, Cause No. A-2237.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Ramge
BRUCE R. RAMGE
Director of Insurance

11-13-2020
Date

CERTIFICATE OF SERVICE

I hereby certify that fully executed copies of this Consent Order were served upon Respondent, Mark Munger, by mailing a copy to his business address at 3345 N. 107th Street, Omaha, NE 68134 and Respondent's home address of 2000 Avenue B, Council Bluffs, IA 51501 by certified mail, return receipt requested, and by regular U.S. mail, on this 13th day of November, 2020.

Shelly Storie