

MAY 20 2021

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
VS.)	ORDER
)	
Erica Long,)	CAUSE NO. A-2257
(NAIC Producer #18690714),)	
)	
RESPONDENT.)	

This matter came on for hearing on May 18, 2021 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. Erica Long ("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 resident insurance producer in the State of Nebraska whose current registered residence and mailing address with the Department is 5916 N 99th Plz., Apt. 2, Omaha, NE 68134 (Ex. 1, Attachment 1)

3. On or about April 8, 2021, a Petition and Notice of Hearing was served upon the Respondent by mailing the same to her registered residence and mailing address by certified mail, return receipt requested, and via regular U.S. mail. (Ex. 2)

4. On or about April 15, 2021, the Petition and Notice of Hearing mailed via certified mail was returned to the Department via the United States Postal Service ("USPS") marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." (Ex. 2, Attachment 1)

5. On or about April 15, 2021, the Petition and Notice of Hearing mailed via first class mail was returned to the Department via USPS marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." (Ex. 2, Attachment 2)

6. On or about March 31, 2020, Respondent completed a Resident License Renewal application. In response to question 1B, "Have you been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing felony, which has not been previously reported to this insurance department," Respondent answered, "No." (Ex. 1, Attachment 2)

7. On or about March 25, 2021, Kevin Schlautman ("Schlautman"), Administrator of the Department's Producers Licensing Division, conducted a search for Respondent on Nebraska's Judicial Branch Case Search ("Justice"). On or about December 6, 2019, the State of Nebraska initiated a criminal action against Respondent. On or about June 19, 2020, Respondent pled guilty to Class 2A felony Assault-2nd degree in CR 19-4493. Respondent received probation for a term of 2 years to begin July 17, 2020. (Ex. 1, Attachment 2)

8. On or about August 25, 2020, Schlautman sent a written inquiry to Respondent seeking additional information regarding the Nebraska Order as well as an explanation regarding her failure to disclose her criminal conviction on her renewal application. The Department mailed this inquiry to Respondent's registered residence and mailing address via certified mail. The inquiry was returned to the Department as not delivered. The inquiry contained language advising Respondent that failure to respond within 15 working days may be considered a violation of the Nebraska Unfair Insurance Trade Practices Act. (Ex. 1, Attachments 3)

9. On or about January 5, 2021, Schlautman sent a second written inquiry to Respondent seeking the same information requested in Paragraph 8. The inquiry also requested that address information be up-to-date as the August 25, 2020 letter was returned to the Department. The Department mailed this inquiry to Respondent at 5812 Larimore Ave, Omaha, Nebraska 68404-2151. The inquiry was returned to the Department as not delivered. The inquiry contained language advising Respondent that failure to respond within 15 working days may be considered a violation of the Nebraska Unfair Insurance Trade Practices Act. (Ex. 1, Attachment 4)

10. Respondent failed to respond to either inquiry within 15 working days. (Ex. 1)

11. Respondent has not notified the Department of the felony conviction. (Ex. 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. 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)(g), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for having admitted or have been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud.

5. 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.

6. Pursuant to Neb. Rev. Stat. § 44-4065(3), within thirty days of the date of arraignment or date of waiver of arraignment, if waived, an insurance producer shall report to the director any criminal prosecution of the producer in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

7. Pursuant to Neb. Rev. Stat. §44-1529(2), the Director may revoke or suspend an insurer's license who has engaged in an unfair trade practice.

8. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 40-4059(1)(g), 44-1525(11), and 44-4065(3) 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 proper notice was attempted at Respondent's registered residence and mailing addresses. The uncontested evidence shows Respondent failed to respond to the Department inquiries seeking additional information about her criminal conduct and an explanation for providing false information on her license application. Respondent's failure to reply to inquiries from the Department is sufficient to show that her lack of response was committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act.

Evidence shows Respondent was charged with criminal activity in December 2019. Said criminal activity was 2nd degree assault for which Respondent received a two term of probation. Respondent completed a license renewal application on or about March 31, 2020. The completed application denied criminal activity. Additionally, in the months after the license renewal, Respondent failed to report the criminal activity which is in violation of the Nebraska Insurance Code.

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.

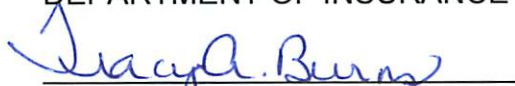
RECOMMENDED ORDER

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 20th day of May, 2021.

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. Erica Long (NAIC Producer #18690714), Cause No. A-2257.

Dated this 20th day of May 2021.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Eric Dunning
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 residence and mailing address, 5916 N 99th Plaza, Apt. 2, Omaha, Nebraska, 68134 via certified mail, return receipt requested and via regular U.S. mail on this 20th day of May, 2021.

Sherry Storie