

APR 20 2022

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	FINDINGS OF FACT, CONCLUSIONS
DEPARTMENT OF INSURANCE,)	OF LAW, RECOMMENDED ORDER AND
)	ORDER
PETITIONER,)	
)	
VS.)	CAUSE NO. A-2274
)	
JACOB GOMEZ,)	
(NAIC Producer #17510069),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on March 15, 2022, before Megan VanAusdall, 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. Jacob Gomez ("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. The Respondent did not offer any exhibits. After the conclusion of evidence, 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. Respondent's registered mailing address with the Department is 1010 Ferdinand Dr, San Antonio, Texas, 78245-1310. (Ex. 2).
3. On or about September 29, 2021, a Petition and Notice of Hearing were served upon Respondent by mailing the same to his registered mailing address, by certified mail, return receipt requested, and via regular U.S. mail. (Ex. 3).
4. On October 7, 2021, the Domestic Return Receipt ("Receipt") attached to the Petition and Notice of Hearing mailed to Respondent's registered address was returned to the Department by the United States Postal Service ("USPS") evidencing delivery on October 4, 2021. (Ex.3, Attachment 1).

5. On or about June 28, 2021, the Department was notified that Respondent's appointment with USAA was terminated for cause. The termination was due to Respondent filing a fraudulent insurance claim against his own USAA policy (Ex. 1, Attachment 1).

6. On or about March 30, 2021, USAA began an investigation into a claim filed by the Respondent on February 27, 2021. On that date, Respondent had called USAA, with whom he had an auto insurance policy, to report a blown tire on his car, and to request a tow truck be sent. Respondent then reported that he walked home, leaving his keys in the disabled car for the tow truck driver. When Respondent's vehicle was later found to have damage suggesting a collision, Respondent denied being in an accident, and suggested that since the keys were left in the car, some unidentified third party may have caused the damage after Respondent had left.

However, when the Respondent was interviewed by investigators from USAA on April 12, 2021, about the above-mentioned auto policy claim, Respondent admitted that he, himself, had hit the cars and caused the collision damage, then filed a fraudulent claim to cover it up. Due to this admission from the Respondent, the investigation concluded that Respondent had filed a false insurance claim under his own USAA auto insurance policy. USAA terminated Respondent's employment for cause in response. (Ex. 1, Attachment 2).

7. On July 15, 2021, the Department sent a letter to Respondent through regular mail, requesting that he submit a response to the allegations. On August 6, 2021, follow-up letter was mailed to Respondent's address as well.

8. On August 30, 2021, a certified letter was sent to Respondent's address on file with the Department, again requesting a response.

9. Respondent did not reply to any of these contact attempts from the Department.

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 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. §44-1524 (1), 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 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), 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 failed, upon the receipt of a written inquiry from the department to respond to such inquiry or request additional reasonable time to respond within fifteen working days.

8. Pursuant to Neb. Rev. Stat. § 44-6604, 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 knowingly and with intent to defraud or deceive present, causes to be presented, or prepare with knowledge or belief that it will be presented to or by an insurer, or any agent of an insurer, any statement as part of, in support of, or in denial of a claim for payment or other benefit from an insurer or pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim.

9. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-4059(1)(j), 44-1524(1) and 44-1525(10) as a result of the conduct set forth in paragraphs 5 through 6 of the Findings of Fact.

DISCUSSION

The uncontested evidence shows that Respondent submitted a false insurance claim on his own automobile insurance. Respondent reported on his filed insurance claim that his vehicle was damaged in a hit-and-run by an unknown third party, who then fled the scene. In fact, the Respondent later admitted that he, himself, hit a parked car while operating his own vehicle, then lied to the insurance company, USAA (which was also his employer) about the basis of the claim. When questioned about the details of the claim, Respondent admitted to filing a false insurance claim, stating that he lied to avoid telling his fiancée about the accident. Respondent's actions were committed deliberately, flagrantly and in conscious disregard of Nebraska law. Respondent's actions demonstrate a high level of 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, 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 20th day of April, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

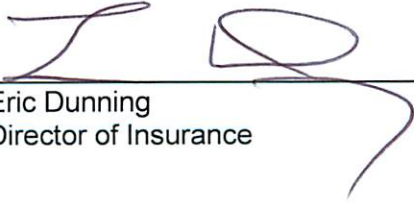

Megan VanAusdall, #27433
Hearing Officer

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. Jacob Gomez (NAIC Producer #17510069), Cause No. A-2274.

Dated this 20th day of April, 2022.

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 were provided to the Respondent at the Respondent's registered business and home address, 1010 Ferdinand Dr, San Antonio, Texas, 78245-1310, via regular U.S. mail on this 20th day of April, 2022.

Sherry Storie