

FEB 10 2022

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
)	ORDER
VS.)	
)	CAUSE NO. A-2275
JUSTIN HARRIS,)	
(NAIC Producer #18979255),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on February 9, 2022, before Seth J. Felton, 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. Justin Harris ("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 address with the Department is 6224 Paddock Glen Drive, Unit 105, Tampa, Florida, 33634. (See Ex. 1, Attachment 1).

3. On or about April 16, 2021, Respondent was found to have violated, *inter alia*, Neb. Rev. Stat. § 44-1525(11) in Cause No. A-2251. The Findings of Fact, Conclusions of Law, Recommended Order and Order in Cause No. A-2251 ordered Respondent to pay an administrative penalty of \$500.00. The Order provided Respondent with thirty (30) days from the date of the Order to pay the administrative penalty. (See Ex. 1, Attachment 2).

4. Payment was not received within the required time, and in turn this action was filed by the Department on October 5, 2021.

5. On or about October 5, 2021, the Petition and Notice of Hearing was served upon Respondent's registered address via certified mail, return receipt requested, and via regular U.S. mail. (See Ex. 3).

6. On or about November 23, 2021, the Petition and Notice of Hearing sent to Respondent's registered address via certified mail, return receipt requested, was returned to the Department marked "Return to Sender, Unclaimed, Unable to Forward." (See Ex. 3, Attachment 1).

7. On or about October 27, 2021, a copy of a Motion for Continuance and Order Granting Continuance, was served upon Respondent's registered address via certified mail, return receipt requested, and via regular U.S. mail. (See Ex. 3). On or about November 9, 2021, the Domestic Return Receipt card was received by the Department, evidencing that the Motion for Continuance and Order Granting Continuance was signed for and received by Respondent. (See Ex. 3, Attachment 2).

8. As of February 4, 2022, the Respondent has not paid the administrative fine of \$500.00 imposed by Order of the Director of the Department in Cause No. A-2251. (See Ex. 2).

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, in his discretion, revoke an insurance producer's license if it is found that the producer has violated any order of the Director.

4. Respondent violated Neb. Rev. Stat. § 44-4059(1)(b) as a result of the conduct found in paragraphs 3, 4 and 8 in the Findings of Fact and as evidenced by the relevant exhibits received.

DISCUSSION

At the hearing, the Department presented sufficient evidence of proper service of notice of these proceedings upon Respondent. The Department served Respondent via certified mail, return receipt requested and regular U.S. mail to Respondent's registered address. While the copy of the petition and notice of hearing sent via certified mail was returned "unclaimed, unable to forward," Respondent did sign for and claim the motion for continuance and order of continuance served on him via certified mail on or about October 27, 2021. Both the petition and notice of hearing, and the motion and order for continuance, were served on Respondent at his registered address of 6624 Paddock Glen Drive, Unit

105, Tampa, Florida, 33634. The petition and notice of hearing was also sent via regular U.S. mail to Respondent's current address, which was clearly 6624 Paddock Glen Drive, Unit 105, Tampa, Florida, 33634, given that Respondent signed for the certified mail copy of the motion and order for continuance served upon him at that same address. The usual presumption is that a correctly addressed letter sent via regular U.S. mail is received by the addressee. *City of Lincoln v. MJM, Inc.*, 9 Neb. App. 715, 618 N.W.2d 710 (2000). Based upon the evidence of record, the Department's service of the petition and notice of hearing upon Respondent was sufficient and jurisdiction over the actions of the Respondent in this matter has been established.

The uncontested evidence shows that an Order entered on April 16, 2021, assessed an administrative penalty of \$500.00 on Respondent to be paid within thirty (30) days of that Order. Respondent failed to pay the administrative penalty as ordered.

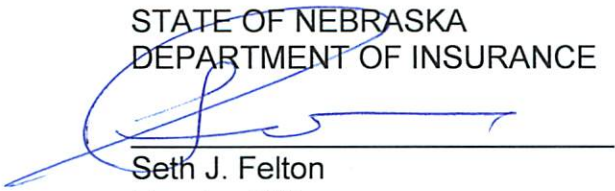
This action constitutes a violation of Neb. Rev. Stat. § 44-4059(1)(b).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's non-resident 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 orders as may be necessary.

Dated this 9th day of February, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Seth J. Felton
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. Justin Harris (NAIC Producer #18979255), Cause No. A-2275.

Dated this 10th day of February, 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 was served upon the Respondent by mailing a copy to Respondent's registered address, 6624 Paddock Glen Drive, Unit 105, Tampa, Florida, 33634, via certified mail, return receipt requested and via regular U.S. mail on this 10th day of February, 2022.

