

MAY 04 2022

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
	)	RECOMMENDED ORDER AND
	)	ORDER
VS.	)	
	)	CAUSE NO. A-2292
WALTER OLMSTEAD,	)	
(NAIC Producer #18404887),	)	
	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on May 3, 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, Megan VanAusdall. Walter Olmstead (“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 now 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 121 Rio Bravo, San Antonio, Texas, 78232-3819. (See Ex. 2, Attachment 1).

3. On or about October 26, 2021, the Department received a notice of termination from USAA, indicating that USAA had terminated Respondent's employment for cause. (See Ex. 1, Attachment 1). The notice alleges five instances in which Respondent issued a "Value Personal Property" (VPP) policy without express consent of the policyholder (Id.).

4. On or about November 26, 2021, in response to Department inquiry, and again on January 7, 2022, Marcie Garcia, a USAA risk and compliance manager, provided copies of USAA's investigative records to the Department (See Ex. 1, Attachment 2). The records include transcripts of five separate calls Respondent had with policyholders, as well as a decisional memorandum generated by USAA which summarizes USAA's findings. USAA found that the transcripts of the calls show that Respondent engaged in deceptive sales practice behavior, which continued even after coaching and correction (Id.).

5. On or about November 18, 2021, the Department sent to Respondent via regular mail a letter requesting a response to the allegations made by USAA (Ex. 1, Attachment 3).

6. On or about December 28, 2021, the Department sent to Respondent via certified mail, return receipt requested, a letter requesting a response to the allegations made by USAA (Ex. 1, Attachment 4).

7. On or about January 7, 2022, the Department received the return receipt signed by Respondent evidencing Respondent received the December 28, 2021 letter (Ex. 1, Attachment 5).

8. Respondent has not responded to the Department's letters as of April 27, 2022 (Ex. 1, ¶13).

9. On or about March 12, 2022, a copy of the Petition and Notice of Hearing filed in this matter was served upon Respondent's registered address via certified mail, return receipt requested, and via regular U.S. mail. (See Ex. 3, Attachment 1).

10. On or about March 15, 2022, the Domestic Return Receipt Card was returned by the US postal service confirming delivery to Respondent, who did sign the receipt card (Ex. 3, Attachment 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, in his discretion, revoke an insurance producer's license if it is found that the producer has violated any insurance law.

4. Pursuant to Neb. Rev. Stat. § 44-4059(1)(g), the Director may, in his discretion, revoke an insurance producer's license if it is found that the producer has committed any insurance unfair trade practice.

5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(h), the Director may, in his discretion, revoke an insurance producer's license if it is found that the producer has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence,

untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

6. Pursuant to Neb. Rev. Stat. § 44-1525(11), it shall be an unfair trade practice in the business of insurance for any insurer to fail, upon receipt of a written inquiry from the Department, to respond to such inquiry or request additional reasonable time to respond within fifteen working days.

7. Respondent violated Neb. Rev. Stat. § 44-4059(1)(b), (g), (h), and § 44-1525(11) as a result of the conduct set forth 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. Respondent signed the domestic return receipt card showing that he received a copy of the petition and notice of hearing. 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 Respondent, in the sale of USAA insurance policies, repeatedly violated USAA sales practices by failing to identify the VPP policy as a separate, optional policy and did not identify the separate premium for the VPP policy. Respondent also failed in each sales call to obtain the policyholder's express consent to issue the VPP policy. Respondent appears to have repeated this practice even after notice and correction by USAA.

The uncontested evidence also shows that Respondent received inquiries from the Department about the deceptive sales practices alleged by USAA. This was Respondent's opportunity to explain his side of the case and to provide mitigating circumstances, if any, for the conduct. However, despite multiple letters to Respondent requesting a response, Respondent did not respond within fifteen days of receiving the letters, nor did he request additional time to respond.


These actions constitute a violation of Neb. Rev. Stat. §§ 44-4059(1)(b), (g), (h), and 44-1525(11).

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 3<sup>rd</sup> day of May, 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. Walter Olmstead (NAIC Producer #118404887), Cause No. A-2292.

Dated this 4<sup>th</sup> day of May, 2022.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



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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, 121 Rio Bravo, San Antonio, Texas, 78232-3819, via certified mail, return receipt requested and via regular U.S. mail on this 4<sup>th</sup> day of May, 2022.



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