

DEC 02 2022

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, RECOMMENDED ORDER
PETITIONER,)	AND ORDER
)	
VS.)	CAUSE NO. A-2301
)	
CALEB MUIA,)	
(NAIC Producer #20263498),)	
)	
RESPONDENT.)	

This matter came on for hearing on October 18, 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. Caleb Muia (“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 and 2 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 business and mailing address with the Nebraska Department of Insurance is 3542 23rd St, Columbus, Nebraska, 68601. (Ex. 1, Attachment 1)
3. On or about March 10, 2022, Respondent submitted a Nebraska license application to the Department, on which they responded “no” to the following question:
 - i. “Have you ever been convicted of a misdemeanor, had a judgement deferred, or are you currently charged with committing a misdemeanor?” (Ex 1, Attachment 2)

4. On May 19, 2022, a search of the Nebraska Judicial Branch website was conducted, and, as a result of that search, a conviction was located for the Respondent, indicating that he was found guilty of Criminal Trespass in the 2nd Degree, a Class 3 misdemeanor on January 12, 2021, in the County Court of Lancaster County, Nebraska. (Ex. 1, Attachment 3)

5. On May 26, 2022, the Department sent a letter to Respondent through regular mail, requesting that he submit a response to the allegations. (Ex 1, Attachment 4)

6. On July 11, 2022, a follow-up letter was sent via certified mail to Respondent's address, again requesting a response. This letter was returned to the Department, along with the return receipt, marked "RETURN TO SENDER, NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD" (Ex 1, Attachment 5)

7. On or about August 24, 2022, a Petition and Notice of Hearing, based on the allegations above, as well as Respondent's failure to respond to queries from the Department, were served upon Respondent by mailing the same to his registered mailing address listed above, by certified mail, return receipt requested. These documents were also sent to the Respondent via regular U.S. mail. (Ex. 2)

8. On or about September 2, 2022, the Domestic Return Receipt ("Receipt") attached to the Petition and Notice of Hearing mailed to 3542 23rd St, Columbus, Nebraska, 68601 was returned to the Department by the United States Postal Service ("USPS"), marked "RETURN TO SENDER, NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD." (Ex. 2, Attachment 1)

9. On or about September 12, 2022, the letter sent via regular U.S. mail was returned to the Department by the USPS, marked "RETURN TO SENDER, MOVED LEFT NO ADDRESS, UNABLE TO FORWARD." (Ex. 2, Attachment 2)

10. Respondent did not reply to any of these contact attempts from the Department. As of October 14, 2022, Respondent has neither updated his contact address nor responded to any of the above contact attempts.

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)(a), the director may suspend or revoke an insurance producer's license or may levy an administrative fine for providing incorrect, misleading, incomplete, or materially untrue information in the license application.

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. §44-1525(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.

9. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(a), 44-4059(1)(g), and 44-1525(11) as a result of the conduct set forth in paragraphs 6 through 10 of the Findings of Fact.

DISCUSSION

The uncontested evidence shows that Respondent knowingly provided false information on their application to the Department for a producer's license. Respondent marked "no" to the question asking "have you ever been convicted of a misdemeanor, had a judgment deferred, or are you currently being charged with a misdemeanor" despite the fact that Respondent had pled guilty to a Class 3 misdemeanor charge of Criminal Trespass in the Second Degree. Respondent made a

conscious choice to lie on the application, and this falsehood was made deliberately, flagrantly and in conscious disregard of Nebraska law. Respondent's actions demonstrate a 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 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 2nd day of December, 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. Caleb Muia (NAIC Producer #20263498), Cause No. A-2301.

Dated this 2nd day of December, 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 mailing address with the Nebraska Department of Insurance which is: 3542 23rd St, Columbus, Nebraska, 68601, via regular U.S. mail on this 2nd day of December, 2022.


