

MAY 16 2023

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PETITIONER,)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	CAUSE NO. A-2323
MEGAN DETWILER)	
(NAIC Producer #19723189))	
)	
)	
RESPONDENT.)	

This matter came on for hearing on April 25, 2023, before Michael W. Anderson, 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, Laurie Burgess. Megan Detwiler (“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 currently holds a non-resident insurance producer’s license in the State of Nebraska. Respondent’s registered residence and mailing address with the Nebraska Department of Insurance is 9975 Antler Creek Drive, Peyton, CO 80831. Respondent’s registered business address with the Nebraska Department of Insurance

is 1855 Telstar Drive, Colorado Springs, CO 80920. The Respondent's registered e-mail address is Megan.Detwiler@usaa.com. (Ex. 2, Attachment 1)

3. On September 19, 2022, the Nebraska Department of Insurance received notice from United Services Automobile Association Company indicating the Respondent's appointment to represent the Company had been terminated. (Ex. 1)

4. Due to this information regarding termination, Respondent was sent several requests for certain information by Petitioner's Office, and failed to respond to those requests as follows:

- a. Original inquiry was sent on November 2, 2022, by United States Postal Service First Class Mail to the residence and mailing addresses on file with the Department for the Respondent. No response was received from the Respondent. (Ex.1, Attachment 1)
- b. A follow-up inquiry was sent on November 29, 2022, by United States Certified Mail to the business address registered with the Department of Insurance for the Respondent. No response was received from the Respondent. (Ex. 1, Attachment 2)
- c. A follow-up inquiry was sent to the Respondent on December 21, 2022, by United States Postal Service Certified Mail to the residence and mailing address registered with the Nebraska Department of Insurance. No response from the Respondent was received by Petitioner's Office. (Ex. 1, Attachment 3)
- d. An additional follow-up inquiry was sent to the Respondent on February 21, 2023, by United States Postal Service Certified Mail to the business address

registered with the Department of Insurance for the Respondent. No response from the Respondent was received by Petitioner's Office. (Ex. 1, Attachment 4)

- e. On March 8, 2023, the Nebraska Department of Insurance received a certified return receipt, stating the certified letter sent to the business address of the Respondent had been delivered on March 2, 2023. This letter was accepted by a person named Martha Hernandez. (Ex. 1, Attachment 5)

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), the Director may levy an administrative fine against, or suspend or revoke the license of an insurance producer's license if it is found that the producer has violated any insurance law.

4. Pursuant to Neb. Rev. Stat. § 44-1525 (11), it shall be unfair trade practice in the business of insurance of any insurer if they demonstrate the "failing of any insurer, 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."

5. Respondent cannot be found to have violated Neb. Rev. Stat. § 44-4059(1)(b) as a result of the conduct as alleged in paragraphs 1-4 in the Findings of Fact.

DISCUSSION

At the hearing, the Department presented evidence of service of notice of these proceedings upon Respondent. The Department served Respondent via certified mail, return receipt requested and regular U.S. mail to the Respondent's registered **resident and mailing** (emphasis added) addresses. Based upon the evidence of record, the Department's service of the petition and notice of hearing upon Respondent at the registered resident and mailing addresses were insufficient, regardless of whether Petitioner's Office has jurisdiction over the actions of the Respondent in this matter.

Evidence introduced into the record, specifically the affidavit of Shelly Storie and the attachment thereto (Ex. 3, Attachment 4) provides a potential additional address for the Respondent. This address was not used to confirm the service of the Petition and Notice of Service in these proceedings. Once the domestic return card was returned to Petitioner's Office with a potentially new address for the Respondent, the Petitioner has reasonable information that their service of the Respondent was insufficient. Therefore, Petitioner's Office has not shown service of this action.

Even the actions alleged to have violated Nebraska law show issues with proving receipt to the Respondent. To prove that an insurance producer has committed a violation of Neb. Rev. Stat. § 44-4059(1)(b), by way of the Unfair Trade Practices Act, the Department has to show that Respondent has engaged in conduct that satisfies all of the elements of the alleged unfair trade practice.

In this case, the Department must show that Respondent has engaged in the "Failing of any insurer, **upon receipt** (emphasis added) of written inquiry from the department, to respond to such inquiry or request additional reasonable time to respond within fifteen working days".

The evidence introduced into the record supports that the Respondent was sent a final request for information on February 21, 2023, however, the affidavit of Autumn Schafer (Ex. 1) notes that this service "was sent [via](sic) certified mail to the **business address** (emphasis added) on file for the Respondent." Mrs. Schafer's affidavit also states that she had received information "from United Services Automobile Association Insurance Company that the appointment of the Respondent was terminated". These two facts, taken together, would seem to indicate that proper service of the Department's inquiry could not be, and in fact is not, attained even from successful service to Respondent's prior place of work.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that this case be dismissed without prejudice to allow Petitioner's Office to reattempt service of the action if it should deem to do so.

Dated this 11th day of May, 2023.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Michael W. Anderson
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. Megan Detwiler (NAIC Producer #8317557), Cause No. A-2323.

Dated this 11 day of May, 2023.

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 addresses, 9975 Antler Creek Drive, Peyton, CO 80831, and 197 Pinecrest Circle, Bluffton, SC 29910, via certified mail, return receipt requested and via regular U.S. mail on this 10th day of May, 2023.


