

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

NOV 29 2023

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	CAUSE NO. A-2338
Edson Lidonde,)	
(NAIC Producer #17241415))	
)	
)	
)	
RESPONDENT.)	

This matter came up for hearing on October 17, 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, Megan VanAusdall. Edson Lidonde ("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 resident insurance producer's license in the State of Nebraska. Respondent's registered residential and business/mailing address with the Department are 4119 N 139th Ave, Omaha, Nebraska 68164 and "AAA Life" 2909 N 118th St, Floor 3, Omaha, Nebraska 68164, respectively. (See Ex. 1, Attachment 1).

3. On or about June 8, 2023, Petitioner's Office received a Termination for Cause concerning the Respondent from AAA Life Insurance Company ("AAA"). (See Exhibit 2, Attachment 1)

4. On August 4, 2023, an investigator with Petitioner's Insurance Complaint Division sent a letter to Respondent at his residential address on file, via certified mail, requesting that Respondent provide a response concerning the Termination for Cause submitted by AAA. (See Exhibit 2, Attachment 3)

5. On August 9, 2023, Petitioner's Office received a Domestic Return Receipt confirming delivery of the August 4, 2023 request. (See Exhibit 2, Attachment 4)

6. As of October 11, 2023, Respondent had not provided a response. (See Exhibit 2)

7. On October 11, 2023, counsel for Petitioner's Office filed a Petition and Notice of Hearing (hereafter "the Original Petition") commencing this proceeding. (Petition and Notice of Hearing filed October 11, 2023)

8. The Original Petition was sent via certified mail, and by regular U.S. mail, to the residential address on file for the Respondent. (See Exhibit 3)

9. On October 12, 2023, counsel for Petitioner's Office filed an Amended Petition and Notice of Hearing (hereafter "the Amended Petition"), with the only addition being located at Section 6(d), in which the Amended Petition states "d. As of October 12, 2023, the Department has not received a response from the Respondent." The rest of the body of the document contains no changes from the Original Petition filed on October 11, 2023. (Amended Petition and Notice of Hearing filed on October 12, 2023)

10. The Amended Petition was sent via certified mail, and by regular U.S. mail, to the residential address on file for the Respondent. (See Exhibit 3)

11. On October 16, 2023, a Domestic Return Receipt was returned to Petitioner's Office, confirming delivery of either the Original Petition or the Amended Petition. (See Exhibit 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. § 84-913, "In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved..."

4. Pursuant to Neb. Rev. Stat. § 44-4059(1), the Director may suspend, revoke or refuse to issue or renew an insurance producer's license or may levy an administrative fine against an insurance producer's license if it is found that the producer has violated any insurance law.

5. Respondent violated Neb. Rev. Stat. § 44-4059(1)(b) and Neb. Rev. Stat. § 44-1524(1), by way of Neb. Rev. Stat. § 44-1525(11), as a result of the conduct found in paragraphs 1-6 in the Findings of Fact and as evidenced by the relevant exhibits received.

DISCUSSION

At the hearing, the Department presented evidence of service of notice of these proceedings upon Respondent. For both the Original Petition and the Amended Petition, the Department served Respondent via certified mail, return receipt requested and regular U.S. mail to the Respondent's registered address. Despite sending both the Original Petition and

the Amended Petition, the Department provided a singular Domestic Return Receipt for these filings, which, while it may confirm delivery of one of the petitions and notices to the Respondent, it is unclear which of the Original Petition and the Amended Petition was successfully delivered to the Respondent.

Despite not entering a second Domestic Return Receipt, this does not necessarily render the proper service of process to the Respondent in this matter invalid. Under Neb. Rev. Stat. § 84-913, "In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved...".

As stated above in the Findings of Fact, the Original Petition and Amended Petitions contained exactly one difference, specifically Section 6(d), which inserts an assertion that the Respondent had not responded to Petitioner's Office's request for information concerning the Termination for Cause. Since it is unknown from the record whether Respondent received the Original Petition, absent Section 6(d), or the Amended Petition, including Section 6(d), this body shall default to the position most favorable to the Respondent, assuming for the sake of argument that Section 6(d) was not communicated to the Respondent.

With this assumption, the notice must still include at least three things: the time, place, and issues involved in the matter. The time and place are both included in the "Notice of Hearing" Section of both petitions, listing the time and place of the hearing as "1526 K Street, Suite 200, Lincoln, Nebraska, on November 14, 2023 at 10:00 am. The issues involved are laid out in the Petition, Sections 1 through 6, which, as well as stating the facts as discussed in the Finding of Facts, also include citations to Neb. Rev. Stat. § 44-1524(1),

and Neb. Rev. Stat. § 44-1525(11), which define the unfair trade practice of failure to respond to written interrogatories from the Department of Insurance.

Even taken without the addition of Section 6(d), and based upon the evidence of record, the Department's service of the petition and notice of hearing upon Respondent at its mailing address was sufficient and jurisdiction over the actions of the Respondent in this matter have been established.

The uncontested evidence shows that Respondent failed to respond to a written request from the Department of Insurance to provide information concerning Respondent's Termination for Cause.

These actions constitute violations of Neb. Rev. Stat. § 44-4059(1)(b), 44-1525(1), and 44-1524(11).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be assessed an administrative penalty of \$500 and that Respondent's resident insurance producer's license be suspended until such a time as the penalty amount is paid and adequate responses concerning Respondent's Termination for Cause are received by Petitioner's Office. 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 29th day of November, 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. Edson Lidonde (NAIC Producer #17241415), Cause No. A-2338.

Dated this 29th day of November, 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 residential address, 4119 N 139th Ave, Omaha, Nebraska 68164, via certified mail, return receipt requested and via regular U.S. mail on this 29th day of November, 2023.



Handwritten signature or initials in blue ink.