

MAR 13 2012

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.)	
)	
FREDERICK M. POLLACK)	CAUSE NO. A-1940
(NAIC Producer #3375564))	
)	
RESPONDENT.)	

This matter came for hearing on the 8th day of March, 2012, before Joel F. Green, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Department of Insurance (“Department”) was represented by its attorney, Matthew Holman. Frederick M. Pollack (“Respondent”) was not present and was not represented by counsel. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. The Department presented evidence at the hearing and the matter was taken under advisement. The hearing officer hereby 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 whose registered business address with the Department is JI Special Risks Insurance Agency, Inc., 1335 L Street, Lincoln,

Nebraska 68508-2531; and whose registered home address is 20207 Crystal Avenue, Gretna, Nebraska 68028. (See Ex. 2)

3. On or about February 7, 2012, a Petition and Notice of Hearing in this matter was served upon Respondent by mailing the same to his registered business address via certified mail, return receipt requested, and to his registered home address via certified mail, return receipt requested and regular U.S. mail. (See Ex. 1)

4. On or about February 13, 2012, the certified letter containing the Petition and Notice of Hearing sent to Respondent's business address was returned to the Department by the United States Postal Service ("USPS") marked as "Return to Sender, Refused, Unable to Forward." (See Ex. 1)

5. On or about March 1, 2012, the certified letter containing the Petition and Notice of Hearing sent to Respondent's home address was returned to the Department by the USPS marked as "Return to Sender, Unclaimed, Unable to Forward." Although the affidavit of Tracy Gruhn stated the letter was returned on February 13, 2012, the returned letter, marked as "Attachment 2", was stamped as being received by the Department on March 1, 2012. (See Ex. 1)

6. As of March 8, 2012, the letter containing the Petition and Notice of Hearing sent by regular U.S. mail was not returned to the Department by the USPS, nor had the Department received notification that the letter was undeliverable. (See Ex. 1)

7. As of July 13, 2011, Respondent was no longer an employee of, or otherwise associated with, JI Special Risks Insurance Agency, Inc. (See Ex. 3)

8. On or about October 25, 2011, and again on or about December 19, 2011, Jane Francis, Administrator of the Department's Consumer Affairs Division, contacted Respondent by

letter notifying Respondent that his registered business address with the Department was incorrect and that Respondent's failure to update his address could result in an administrative action. (See Ex. 4)

9. Between January 30, 2012 and February 2, 2012, the Department made three separate attempts to contact Respondent by telephone at Respondent's registered home phone number, 402-290-7655, regarding Respondent's registered business address. (See Ex. 4)

10. Respondent failed to update his registered business address with the Department within thirty days after he was no longer associated with JI Special Risks Insurance Agency, Inc. (See Ex. 2, 4)

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of insurance producers to sell insurance 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. NEB. REV. STAT. § 44-4054(8) (Reissue 2010) states that "[l]icensees shall inform the director by any means acceptable to the director of a change of legal name or address within thirty days after the change. Any person failing to provide such notification shall be subject to a fine by the director of not more than five hundred dollars per violation, suspension of the person's license until the change of address is reported to the director, or both."

4. Respondent's failure to notify the Department of his change in address within thirty days from the date he separated from JI Special Risks Insurance Agency, Inc. is a violation of NEB. REV. STAT. § 44-4054(8).

5. NEB. REV. STAT. § 44-4059(1)(b) (Reissue 2010) states that the Director may revoke or suspend a producer's license and/or impose a fine upon a licensee for "[v]iolating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director."

6. Respondent's aforementioned violation of NEB. REV. STAT. § 44-4054(8) 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 pay an administrative fine in the amount of five hundred dollars (\$500) within thirty days from the date the director of insurance adopts this order, and that Respondent's insurance producer license be suspended until such time that Respondent updates his registered business address with the Department. The Department will continue to retain jurisdiction over this matter until all provisions of this order have been complied with.

Dated this 13th day of March, 2012.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


JOEL F. GREEN
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 the Department in the matter of State of Nebraska Department of Insurance vs. Frederick M. Pollack, Cause No. A-1940.

Dated this 13th day of March, 2012.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



BRUCE R. RAMGE
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 Respondent at his registered business address of JI Special Risks Insurance Agency, Inc., 1335 L Street, Lincoln, Nebraska 68508-2531 by certified mail return receipt requested, and upon Respondent at his home address, 20207 Crystal Avenue, Gretna, Nebraska 68028, by certified mail, return receipt requested, and regular U.S. mail on this 13th day of March, 2012.


