

AUG 20 2012

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PETITIONER,)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	
SABINE BERZINS,)	
)	CAUSE NO. A-1949
)	
RESPONDENT.)	

This matter came on for hearing on the 2nd day of August 2012 before Eric Dunning, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) was represented by its attorney, Charles Hamilton. Sabine Berzins, (“Respondent”), was not present and was not represented by an attorney. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was received, and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent holds an expired insurance producer license. Her registered business address with the Department is Physicians Mutual, 801 N 96th St., Suite #220, Omaha, NE 68114-2592 (“registered business address”), and registered home address is 608 S. 55th St., Omaha, NE 68106 (“registered home address”). (Exhibit 2).

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers in Nebraska.

3. On or about July 3, 2012 the Petition and Notice of Hearing were served upon the Respondent by mailing the same to her registered business address, by certified mail return receipt requested. On or about July 12, 2012, the certified letter was returned to the Department of Insurance marked "Return to Sender –Not Deliverable as Addressed -- Unable to Forward." (Exhibit 1).

4. On or about July 3, 2012, the Petition and Notice of Hearing were served upon the Respondent by mailing the same to her registered home address by First Class United States Mail. On or about July 16, 2012, the letter was returned to the Department of Insurance marked "Return to Sender –Not Deliverable as Addressed -- Unable to Forward." (Exhibit 1).

5. On or about July 3, 2012, the Petition and Notice of Hearing were served upon the Respondent by mailing the same to Senior Solutions, 3345 N. 10th Street, Omaha, NE 68134 by certified mail return receipt requested, an address found for Respondent on the internet by Barbara Peterson, Insurance Investigator for the Department of Insurance. On or about July 10, 2012, the letter was returned to the Department of Insurance marked "Return to Sender – Insufficient Address -- Unable to Forward." (Exhibit 1).

6. On or about January 17, 2012, Barbara Peterson ("Ms. Peterson"), an Insurance Investigator employed by the Department sent a letter by U.S. Mail, postage prepaid, to Respondent at her registered business address of Physicians Mutual, 801 N. 96th St., Ste. #220, Omaha, NE 68814-2592, regarding a complaint received by the Department. Ms. Peterson requested Respondent respond to certain questions and specifically notified Respondent that she is required under Nebraska law to respond within fifteen (15) working days. On January 23, 2012, that letter was returned to the Department with the following notation: "Forward Time Exp Rtn to Send". (Exhibit 3).

7. On or about January 25, 2012, Ms. Peterson sent a second letter, by U.S. Mail, postage prepaid, to Respondent at her registered home address of 608 S. 55th St., Omaha, NE 68106-1314. That letter contained the same substantive information as the letter of January 17, 2012, and Ms. Peterson again requested that Respondent respond to certain questions and specifically notified Respondent that she is required under Nebraska law to respond within fifteen (15) working days. On February 6, 2012, that letter was returned to the Department with the following notation: "Return to Sender, Not Deliverable as Addressed, Unable to Forward". (Exhibit 3)

8. On or about February 6, 2012, Ms. Peterson sent a third letter, by U.S. Mail, postage prepaid, to Respondent to third address Ms. Peterson located by using the internet, Senior Solutions, 3345 N. 10th St., Omaha, NE 68134. That letter contained the same substantive information as the letters of January 17, 2012 and January 25, 2012, and Ms. Peterson again requested Respondent respond to certain questions and specifically notified Respondent that she is required under Nebraska law to respond within fifteen (15) working days. The letter of February 6, 2012, has not been returned to the Division, and Ms. Berzins has not responded to the questions in that letter as of the date of the hearing. (Exhibit 3)

9. On or about March 2, 2012, Ms. Peterson sent a fourth letter, by U.S. Mail, certified, return receipt requested, postage prepaid, to insurance producer Sabine Berzins, again using the non-registered business address Ms. Peterson located by internet, Senior Solutions, 3345 N. 10th St., Omaha, NE 68134, regarding the above-referenced administrative investigation. That letter contained the same substantive information as all three letters previously mentioned in this affidavit, and Ms. Peterson again requested that Sabine Berzins respond to certain questions and specifically notified Ms. Berzins that she is required under Nebraska law to respond within fifteen

(15) working days. On March 9, 2012, that letter was returned to the Division unclaimed, with the following notation, "Return to Sender, Attempted – Not Known, Unable to Forward". (Exhibit 3)

10. As of the date of the hearing, Respondent has not answered any of the questions regarding the administrative investigation (Exhibit 3).

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4001 et seq. Under Neb. Rev. Stat. §44-4059(5), the director retains authority to enforce the provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing Act even if the person's license or registration has lapsed by operation of law.

2. The Department has personal jurisdiction over Respondent.

3. Respondent violated Neb. Rev. Stat. §44-1525(11), which provides that "Any of the following acts or practices, if committed in violation of section 44-1524, shall be unfair trade practices in the business of insurance: . . . (11) 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; . . ." as a result of the conduct set forth in Paragraphs 6 through 10 of the Findings of Fact.

4. Respondent violated Neb. Rev. Stat. §44-4054(8) which provides that "Licensees 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" as a result of the conduct set forth in Paragraphs 6 through 10 of the Findings of Fact.

5. Respondent violated Neb. Rev. Stat. §44-4059(1)(b) which provides that the Director may impose a fine, suspend or revoke an agent's license if that person has violated "any insurance law or violat[ed] any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director" as a result of the conduct set forth in Paragraphs 6 through 10 of the Findings of Fact.

DISCUSSION

Respondent's failure to update a registered business or home address has led to the Department's inability to investigate matters under its jurisdiction. As each letter sent to Respondent's registered addresses with the Department has been returned by the United States Postal Service as Return to Sender, it is apparent that neither address remains valid for the Respondent. To date, the inability to communicate with Respondent due to her failure to update the registered business and home address leaves the Department without other opportunity to address consumer complaints. Under Neb. Rev. Stat. §44-4059(5), the director retains authority to enforce the provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing Act even if the person's license or registration has lapsed by operation of law. As Respondent continues to be subject to the terms of Nebraska law, the Hearing Officer hereby recommends that Respondent's insurance producer license be placed on revoked status.

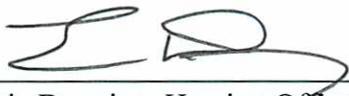
RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the Respondent's Nebraska insurance producer license be placed on revoked status. Such license shall not be reinstated until such time as Respondent files corrected registered address forms, provides complete responses to Department of Insurance inquiries, and provides sufficient explanation for

her failure to take such action as of the date of the hearing in this matter. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department of Insurance to make application for such further orders as may be necessary.

Dated this fifteenth day of August 2012.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Eric Dunning, 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 v. Sabine Berzins*, Cause No. A-1949.

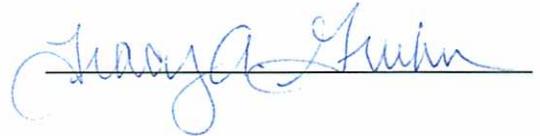
Dated this 20th day of August 2012.

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 the Respondent by mailing a copy to Respondent to her registered business address, 801 N 96th St., Suite #220, Omaha, NE 68114-2592 by certified mail, return receipt requested; her registered home address 608 S. 55th St., Omaha, NE 68106 by First Class United States Mail; and to 3345 N. 10th St., Omaha, NE 68134 by certified mail, return receipt requested on this 20th day of August, 2012.

A handwritten signature in blue ink, reading "Tracy A. Quinn", is written over a horizontal line.