

JAN 09 2013

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	FINDINGS OF FACT,
PETITIONER,	)	CONCLUSIONS OF LAW,
	)	RECOMMENDED ORDER
vs.	)	AND ORDER
	)	
LORI SUE STEPHENS,	)	CAUSE NO. A-1967
	)	
RESPONDENT.	)	

This matter came for hearing on the 27th day of December 2012, before Eric Dunning, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Department of Insurance (“Department”) was represented by its attorney, Charles A. Hamilton. Lori Sue Stephens (“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 and home address with the Department is 65 Germantown Ct., Suite 203, Cordova, Tennessee 38018. (See Ex. 2)

3. On or about December 4, 2012, the Petition and Notice of Hearing were served upon Respondent by mailing the same to her at her registered business and home address via certified mail. On or about December 13, 2012, the United States Post Office returned to Department the Domestic Return Receipt was returned to the Department indicating a delivery date of December 10, 2013. (See Ex. 1)

4. The mailing sent by regular United States Mail has not been returned by the United States Postal Service. (See Ex. 1)

5. On or about September 6, 2011, Respondent applied for her initial insurance producer's license and submitted a check for the licensing fee in the amount of \$60.00. Respondent's check was returned to the Department unpaid because her account contained nonsufficient funds. As a result, Respondent did not pay the licensing fee with her initial application for licensure. (See Ex. 2)

6. On or about September 21, 2011, Jason McCartney, the Department's Licensing Division Administrator, sent Respondent a letter by certified mail requesting payment of the licensing fee plus a \$25.00 administrative fee for a total of \$85.00 in fees. On or about September 29, 2011, Department received a certified mail return receipt card evidencing receipt of said correspondence. Respondent has not responded to this letter as of the date of the filing of the petition. (See Ex. 2)

7. On or about December 22, 2011, Jason McCartney sent a second letter to Respondent at her registered home and business address, via certified mail return receipt requested. In the letter, Mr. McCartney informed Respondent that a hold had been placed on her license and if payment was not received within ten business days an administrative action

would be taken against her license. That letter was returned to the Department unclaimed (See Ex. 2)

8. Respondent has not provided payment of \$85.00 to the Department for licensing and administrative fees.

#### 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. Pursuant to NEB.REV.STAT. §44-1525(11) failure “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,” if committed in violation of Neb. Rev. Stat. § 44-1524, is a violation of the unfair insurance trade practices act.

4. Pursuant to NEB. REV. STAT. §44-4064, before any insurance producer’s license or appointment is issued or renewed, a person requesting such license shall pay or cause to be paid to the Director the applicable licensing fee.

5. Pursuant to NEB. REV. STAT. §44-4059(1)(b), the Director may suspend, or revoke an insurance producer’s license, or levy an administrative fine for violating any insurance law or violating any rule, regulation, subpoena, or order of the Director of another state’s insurance commissioner or director.

6. Pursuant to NEB. REV. STAT. §44-4059(1)(h), the Director may suspend or revoke an insurance producer’s license, or levy an administrative fine for using fraudulent,

coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

7. Respondent violated NEB. REV. STAT. §§ 44-4059(1)(b), 44-4059(1)(h) and 44-4064 when she failed to submit valid funds with her licensing application by providing the Department with a check on an account in which Respondent neglected to maintain sufficient funds for the \$60.00 check to be honored.

8. Respondent violated NEB. REV. STAT. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(h) when she failed to reply to correspondence received from the Department.

### DISCUSSION

Respondent did not appear at the hearing and no evidence or testimony was provided on her behalf. The Department produced evidence and elicited testimony alleging Respondent failed to have sufficient funds to pay for her initial producer license. Notwithstanding Respondent's failure to pay her licensing fee, Respondent was issued a producer's license. The lack of sufficient funds was not discovered until after the Department issued the license, and the Department contends implicitly by its presentation of evidence and testimony that despite Respondent's failure to initially pay for her licensing fee, Respondent was a licensed producer and should not be excused from having to pay the initial licensing and administrative fees owed to the Department. Continued attempts by Department to resolve matter without administrative action were unsuccessful as Respondent failed to reply to correspondence from the Department. The Hearing Officer concludes that failure to pay a licensing fee or to respond to correspondence from the Department makes Respondent's licensure not in accord with the requirements of the Insurance Producers Licensing Act.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Insurance Producer's License be revoked. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter until all provisions of this order have been complied with.

Dated this 3<sup>rd</sup> day of January 2013.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
Eric Dunning  
HEARING OFFICER  
Attorney Number: 20686

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 v. Lori Sue Stephens, Cause No. A-1967.

Dated this 9 day of January 2013.

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 Lori Sue Stephens, 65 Germantown Ct., Suite 203, Cordova, Tennessee 38018, by certified mail, return receipt requested, and by First Class United States Mail on this 9<sup>th</sup> day of January 2013.

  
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