

SEP 18 2013

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, RECOMMENDED ORDER
PETITIONER,	)	AND ORDER
	)	
VS.	)	CAUSE NO. A-1990
	)	
DONALD P. ARANT,	)	
NAIC National Producer #30684,	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on September 18, 2013, before Matthew W. Holman, 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, Joel F. Green. Donald P. Arant (“Respondent”) was not present and was not represented by counsel. The proceedings were tape recorded by Vicki Morehead, 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 was a licensed resident insurance producer whose current registered business address with the Department is Hansen Agency, Inc., 14154 W. Center Road, Omaha, NE 68144. Respondent’s registered residential address with the Department is 3905 N. 153rd Court #108, Omaha, NE 68116. Respondent’s insurance producer license expired on August 31, 2013. (See Ex. 2).

3. On or about August 5, 2013 the Petition and Notice of Hearing were served upon Respondent by mailing the same to his registered business address, by certified mail return receipt requested, and to his registered home address via regular U.S. mail. (See Ex. 1)

4. On or about August 7, 2013, the domestic return receipt attached to the certified letter was returned to the Department by the United States Postal Service indicating a delivery date of August 6, 2013. The letter addressed to Respondent's registered home address by regular U.S. mail was not returned to the Department by the United States Postal Service, nor did the Department receive notice that the letter was undeliverable. (See Ex. 1)

5. On or about October 2, 2011, Respondent met with Lisa M. Meyer, formerly known as Lisa M. Boespflug ("Meyer") to assist Meyer in applying for individual health insurance coverage through Blue Cross Blue Shield. (See Ex. 3)

6. On or about October 2, 2011, Meyer completed the first page of an application for health coverage, provided Respondent with a voided check for withdrawal of premium purposes, and was assured my Respondent that coverage would begin on November 1, 2011. (See Ex. 3)

7. On or about December 22, 2011, Meyer visited her doctor and had no health insurance coverage in place. In follow-up correspondence, Respondent indicated the delay in coverage was on the part of Blue Cross Blue Shield, due to end of the year applications. (See Ex. 3)

8. On or about January 27, 2012, Respondent indicated to Meyer that she could expect coverage beginning February 1, 2012. (See Ex. 3)

9. On or about February 6, 2012, Meyer received the insurance coverage packet from Blue Cross Blue Shield which contained several discrepancies. Specifically, the application was dated December 20, 2011, not October 2, 2011, certain medical history questions were inaccurately

marked “no,” and although the application contained a signature indicating Meyer’s name, it was not Meyer’s signature. (See Ex. 3)

10. On or about May 17, 2012, Paul Swinton, Senior Counsel for Farm Bureau Financial Services caused a Suspected Fraudulent Claim Referral to be submitted to the Nebraska Department of Insurance. This referral indicates that Respondent admitted to falsification of documents and forging Meyer’s signature. (See Ex. 4)

11. On or about July 13, 2012, Scott Zager (“Zager”), insurance investigator for the Consumer Affairs Division of the Nebraska Department of Insurance, sent a written inquiry via regular U.S. mail to Respondent’s registered business address, requesting information regarding his handling of Meyer’s application. The letter specified that a response is required within fifteen working days. Respondent did not provide the Department a response to this inquiry. (See Ex. 5)

12. On or about October 3, 2012, Zager sent a written inquiry via regular U.S. mail to Respondent’s registered business address, requesting information regarding his handling of Meyer’s application. On October 4, 2012 a copy of this inquiry was sent via facsimile to Respondent’s registered business facsimile number. Respondent did not provide the Department a response to these inquiries. (See Ex. 5)

13. On or about February 1, 2013, Zager sent a written inquiry to Respondent at his registered business address by certified mail, return receipt requested. On or about February 6, 2013, the return receipt card was returned to the Department of Insurance indicating proper delivery to Respondent’s registered business address. Respondent did not provide the Department a response to this inquiry. (See Ex. 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. Pursuant to Neb. Rev. Stat. § 44-4059(5), the director retains authority to enforce 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. Pursuant to Neb. Rev. Stat. § 44-4059(1), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for any one or more of the following causes: (b) violating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director; (g) having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud; (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; or (j) forging another's name to an application for insurance or to any document related to an insurance transaction.

4. 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 Nebraska Unfair Insurance Trade Practices Act.

5. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), and 44-4059(1)(j) as a result of the conduct set forth in paragraphs 5 through 10 of the Findings of Fact.

6. Respondent violated Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(g) as a result of the conduct set forth in paragraphs 11 through 13 of the Findings of Fact.

### DISCUSSION

The Department provided evidence of delivery and receipt of the Petition and Notice of Hearing in this matter to Respondent on or about August 5, 2013. The Department's uncontested evidence further indicates that the Respondent took application materials from Ms. Meyer in October 2011 and failed to forward these application materials to the insurer in a timely manner. Instead, Respondent forged a new application for Ms. Meyer which was submitted to the insurer in January 2012. The affidavit of Mr. Swinton includes evidence indicating that Respondent admitted to the falsification of documents and forging of Ms. Meyer's signature. Even without considering the affidavit of Mr. Swinton, the remaining evidence presented by the Department overwhelmingly indicates that Respondent failed to timely remit Ms. Meyer's original application to the insurer, forged Ms. Meyer's signature on a subsequent insurance application, and submitted said application to the insurer. Additionally, the Department has shown that Respondent has repeatedly failed to respond to Department inquiries within fifteen working days of receipt.

Having seen no evidence to the contrary, the Department has sufficiently shown that Respondent violated Nebraska law by using fraudulent, coercive, or dishonest practices; forging another's name to an application for insurance; and failing to respond to Department inquiries within fifteen business days of receipt.

No evidence presented indicates malicious intent on behalf of Respondent. Instead, it appears that Respondent made a mistake and utilized extremely poor judgment in a misguided attempt to rectify the situation without being discovered. However, judgment is a vital aspect of

professional licensure. Through his actions, Respondent has shown a disregard for the law and a willingness to break the rules in order to cover up his mistakes. Such lack of judgment and disregard for the law are unacceptable qualities in a licensed professional.

In light of the violations and conduct described above, the Hearing Officer hereby recommends that Respondent's insurance producer license be revoked.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska insurance producer license be revoked. 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 further orders as may be necessary.

Dated this 18th day of September, 2013.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



Matthew W. Holman  
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. Donald Arant, NAIC National Producer #30684, Cause No. A-1990.

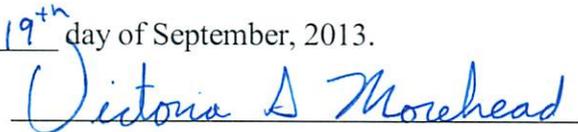
Dated this 18 day of September, 2013.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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Bruce R. Range  
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 business, Hansen Agency, Inc., 14154 W. Center Road, Omaha, NE 68144 and his registered home address, 3905 N. 153rd Court #108, Omaha, NE 68116 by certified mail, return receipt requested and regular U.S. mail on this 19<sup>th</sup> day of September, 2013.

  
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Victoria A. Morehead