

DEC 19 2013

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
vs.	)	RECOMMENDED ORDER
	)	AND ORDER
	)	
RICKY BREDTHAUER,	)	CAUSE NO. A-1992
NAIC National Producer #3186986	)	
	)	
RESPONDENT.	)	

This matter came for hearing on the 5th day of December, 2013, 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, Laura Arp. Ricky Bredthauer (“Respondent”) was present but was not represented by counsel. The proceedings were tape recorded by Victoria S. Morehead, 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 testified he is a licensed insurance producer.

3. On or about September 3, 2013, a Petition and Notice of Hearing in this matter was served upon Respondent by mailing the same to Respondent at P.O. Box 134, Aurora, Nebraska 68818 via certified mail, return receipt requested, and via regular U.S. mail. (See Ex. 1)

4. On or about September 5, 2013, the return receipt card attached to the certified mailing addressed to Respondent was returned to the Department by the United States Postal Service (“USPS”) indicating a delivery of the Petition and Notice of Hearing in this matter. (See Ex. 1)

5. On or about November 1, 2013, a copy of the Notice of Second New Hearing Date in this matter was served upon Respondent by mailing the same to Respondent at P.O. Box 134, Aurora, Nebraska 68818, via certified mail, return receipt requested. (See Ex. 1)

6. On or about November 5, 2013, the return receipt card attached to the certified mailing addressed to Respondent was returned to the Department by the United States Postal Service (“USPS”) indicating a delivery of the Notice of Second New Hearing Date to Respondent on or about November 4, 2013. (See Ex. 1)

7. On or about November 15, 2013, a copy of the Notice of Third New Hearing Date in this matter was served upon Respondent by mailing the same to him at P.O. Box 134, Aurora, Nebraska 68818, via certified mail, return receipt requested. (See Ex. 1)

8. On or about November 19, 2013, the return receipt card attached to the certified mailing addressed to Respondent was returned to the Department by the United States Postal Service (“USPS”) indicating a delivery of the Notice of Third New Hearing Date to Respondent on or about November 18, 2013. (See Ex. 1)

9. On or about August 19, 2013, a state tax lien, Department of Revenue lien serial number 11380345, was issued for \$12,603.41 and filed with the Nebraska Secretary of State by the State of Nebraska Department of Revenue as a result of Respondent's failure to pay state income tax to the State of Nebraska for tax periods 1998, 1999, 2000, 2001 and 2002. (See Ex. 2)

10. On or about August 19, 2013, a state tax lien, Department of Revenue lien serial number 11380366, was issued for \$8,083.09 and filed with the Nebraska Secretary of State by the State of Nebraska Department of Revenue as a result of Respondent's failure to pay state income tax to the State of Nebraska for tax periods 2003, 2007, 2008, 2009 and 2010. (See Ex. 2)

11. On or about August 19, 2013, a state tax lien, Department of Revenue lien serial number 11380384, was issued for \$721.18 and filed with the Nebraska Secretary of State by the State of Nebraska Department of Revenue as a result of Respondent's failure to pay state income tax to the State of Nebraska for tax periods 2011. (See Ex. 2)

12. Respondent received multiple notices from several insurance companies, including but not limited to Lincoln Heritage Life Insurance Company, Loyal American Life Insurance Company, American Heritage Life Insurance Company and Illinois Mutual Life Insurance Company, that portions of the commissions owed by these insurance companies to Respondent were placed on hold and remitted to the State of Nebraska Department of Revenue in response to a Notice of Levy filed by the State of Nebraska Department of Revenue. Respondent was advised that commissions owed to him will continue to be placed on hold and the Notice of Levy will remain in force until a Release of Levy is filed by the State of Nebraska Department of Revenue. (See Ex. 3)

13. Respondent testified that he has neither filed a Nebraska state income tax return with the State of Nebraska Department of Revenue nor remitted money directly to the State of Nebraska Department of Revenue for at least twelve years.

14. Respondent testified that he has contacted the State of Nebraska Department of Revenue in order to resolve the matter as soon as possible.

### 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. § 44-4059(1)(h) (Reissue 2010) provides that the director of the Department of Insurance may suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy an administrative fine against an insurance producer for "[u]sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."

4. NEB. REV. STAT. § 44-4059(1)(n) (Reissue 2010) provides that the director of the Department of Insurance may suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy and administrative fine against an insurance producer for "[f]ailing to pay state income tax or comply with an administrative or court order directing payment of state income tax."

5. NEB. REV. STAT. §§ 44-4059(1)(h) and 44-4059(1)(n) became laws of the State of Nebraska in 2001.

6. Respondent's failure to pay Nebraska state income tax for tax periods 2002, 2003, 2007, 2008, 2009, 2010 and 2011 is a violation of NEB. REV. STAT. §§ 44-4059(1)(h) and 44-4059(1)(n).

7. Respondent did not violate NEB. REV. STAT. §§ 44-4059(1)(h) and 44-4059(1)(n) as a result of his failure to pay Nebraska state income tax for tax periods 1998, 1999, 2000 and 2001 .

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer license be immediately suspended until Respondent can provide sufficient documentation to the Department that he has remitted proper and complete payment of Nebraska state income tax owed to the State of Nebraska Department of Revenue for tax periods 2002 through 2003 and 2007 through 2011. The Department will continue to retain jurisdiction over this matter until all provisions of this order have been complied with.

Dated this 17<sup>th</sup> day of December, 2013.

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. Ricky Bredthauer, Cause No. A-1992.

Dated this 19 day of December, 2013.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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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 P.O. Box 134, Aurora, Nebraska 68818, by certified mail, return receipts requested, and by regular U.S. mail on this 19<sup>th</sup> day of December, 2013.

  
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Victoria S. Morehead