NEBRASKA DEPARTMENT
OF INSURANCE

JUN 09 2014

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA DEPARTMENT OF INSURANCE, PETITIONER, VS. ARMINDA L. KRING (NAIC National Producer #15855970), RESPONDENT.	)))))))))))	FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDED ORDER AND ORDER CAUSE NO. A-2001

This matter came on for hearing on May 21, 2014, 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, Krystle Ledvina Garcia. Arminda L. Kring ("Respondent") was not present and was not represented by counsel. The proceedings were recorded by Brandis Courser, a licensed Notary Public. The Department presented evidence at the hearing. The Department also requested that the record be held open for a period of two weeks so that certain certified records could be obtained from the District Court of Kearney County and from the County Court of Kearney County. Non-certified copies of these records were submitted at the hearing and marked as exhibits 4 and 5. The record was held open for a period of two weeks, or until the identified certified records were submitted. The Department submitted the certified records on May 23, 2014. The records are marked as exhibit 6 and have been made a part of the record. 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 in the State of Nebraska from October 2011 through October 2013. Respondent's license expired on October 31, 2013. (Ex. 2)

3. Respondent's registered business and residence address with the Department is 1705 22 Road, Axtell, NE 68924. (Ex. 2)

4. On or about April 18, 2014, the Petition and Notice of Hearing were served upon Respondent by mailing the same to her registered business and residence address, by certified mail return receipt requested, and via regular U.S. mail. (Ex. 1)

5. On or about April 23, 2014 the Domestic Return Receipt attached to the certified letter was returned to the Department by the United States Postal Service ("USPS") confirming delivery. (Ex. 1)

6. On or about June 5, 2013, a complaint was filed in the County Court of Kearney County, Case CR 13-68, alleging that Respondent had committed a Fraudulent Insurance Act valuing over $1,500, a Class III Felony. (Ex. 4, 6)

7. On or about July 18, 2013, Respondent waived arraignment and her case was bound over to the District Court of Kearney County, Case CR 13-8. (Ex. 4, 6)

8. On or about October 21, 2013, a complaint was filed in the County Court of Kearney County, Case CR 13-162, alleging that Respondent committed a Fraudulent Insurance Act valuing between $200 and $500, a Class I Misdemeanor. (Ex. 3)

9. On or about December 5, 2013, Respondent plead no contest and was found guilty in the County Court of Kearney County, Case CR 13-162, for the charge of Fraudulent Insurance Act, a Class I Misdemeanor. Respondent was sentenced to probation and ordered to pay restitution. (Ex. 3)

10. On or about December 5, 2013, Case CR 13-8 in the District Court of Kearney County was dismissed. (Ex. 5, 6)

11. At no time did Respondent report the above referenced criminal prosecution(s) to the Department of Insurance. (Ex. 2)

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.

2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. § 44-4059(1)(b), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for violating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director.

4. Pursuant to Neb. Rev. Stat. § 44-4059(1)(f), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for having been convicted of a felony or a Class I, II, or III misdemeanor.

5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(h), the director may suspend or revoke an insurance producer's license, or may 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.

6. Pursuant to Neb. Rev. Stat. § 44-4065(3), licensees must report to the director any criminal prosecution taken against the licensee within thirty days of arraignment or waiver of arraignment.

7. Pursuant to Neb. Rev. Stat. § 44-4059(1)(5), the director retains the authority to enforce provisions of the Insurance Producers Licensing Act against any person under investigation for or charged with a violation of the act even if the person's license or registration has been surrendered or has lapsed by operation of law. No disciplinary proceeding shall be instituted against any licensed person after the expiration of three years from the termination of such license.

8. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(f), 44-4059(1)(h), and 44-4065(3) as a result of the conduct set forth in paragraphs 6 through 11 of the Findings of Fact.

DISCUSSION

The uncontested evidence provided by the Department indicates that Respondent was subject to criminal prosecution which was initiated in June 2013. Ultimately, the prosecution resulted in the conviction of a Class I misdemeanor, Fraudulent Insurance Act. Such a conviction is clear evidence that Respondent is not capable of functioning as a responsible insurance producer. Respondent initially waived arraignment on July 18, 2013, while she was still actively licensed as an insurance producer. Respondent's failure to timely report this criminal prosecution constitutes a separate violation of law and is further evidence of Respondent's inability to operate successfully in a highly regulated industry. Although the underlying criminal conduct took place prior to

Respondent's licensure, had such conduct (or subsequent prosecution) been disclosed to the Department, such license would likely not have been issued.

Although Respondent's license has since expired, the Department retains jurisdiction over producers to enforce provisions of the licensing act for three years following the expiration of a producer's license. Respondent's criminal prosecution was initiated while she was still an active licensed as a producer, and Respondent failed to timely report the prosecution while still an active producer. A criminal prosecution for committing fraudulent insurance acts and the failure to report such prosecution is sufficient evidence to justify revocation of a producer license.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska resident 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 9 day of June, 2014.

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. Arminda L. Kring (NAIC National Producer #15855970), Cause No. A-2001.

Dated this 11 day of June, 2014.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Ramge

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's registered business and residence address, 1705 22 Road, Axtell, NE 68924 via certified mail, return receipt requested and regular U.S. mail on this 11th day of June, 2014.

Brandis Clouser