NEBRASKA DEPARTMENT
OF INSURANCE

DEC 22 2015

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA DEPARTMENT OF INSURANCE,	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDED ORDER AND ORDER
PETITIONER,	)	
VS.	)	
CHARLES D. MAYNARD, SR. (NAIC National Producer #15974145),	)	CAUSE NO. A-2025
RESPONDENT.	)	

This matter came on for hearing on December 3, 2015, before Laura L. Arp, 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. Respondent Charles D. Maynard, Sr. was not present and was not represented by an attorney. The proceedings were recorded by Brandis Courser, a licensed Notary Public. Exhibits 1, 2, and 3 were received, the record was left open for Exhibit 4 to be offered and received, and the matter was taken under advisement. As a result of the hearing and evidence, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer whose license expired November 30, 2015. Respondent's registered business address with the Nebraska Department of Insurance is 14792 Ray Sapp Drive, Omaha, NE 68138. Respondent's registered residence address with the Nebraska Department of Insurance is 7229 North 39th Avenue, Omaha, NE 68112. (E2).

2. The Department of Insurance is the duly designated agency of the State of Nebraska empowered to exercise jurisdiction and control over the licensing of insurance agents in Nebraska

pursuant to Neb. Rev. Stat. § 44-101.01 and § 44-4047 et seq. Said jurisdiction and control have been present at all times material hereto.

3. The Department has authority to take this action against Respondent's expired license. Respondent's license expired only a few days before the hearing in this matter. (E2). The Department retains authority to enforce the Insurance Producers Licensing Act and impose any penalty or remedy authorized by the Act against any person charged with a violation of the Act, even if the person's license is voluntarily surrendered or lapsed, for three years after termination of the license, pursuant to Neb. Rev. Stat. § 44-4059(5).

4. The Petition and Notice of Hearing in this matter were served upon Respondent at his registered home address and his registered business address. Respondent was given reasonable notice and an opportunity to be heard in these proceedings. (E1).

5. On or about April 13, 2015, the Respondent was arraigned in the District Court of Sarpy County, Nebraska for the following charges: Theft by Deception, More than $1500, a Class III Felony; Issue fake or Counterfeit Insurance Policy, Class III Felony; Fraudulent Insurance Act, $500 or more, but less than $1500, Class IV Felony, Identity Theft, $1500 or more, Class III Felony. (E3).

6. On or about July 6, 2015, the Respondent was re-arraigned for the following charges: Theft by Deception, More than $1500, a Class III Felony; Issue fake or Counterfeit Insurance Policy, Class III Felony; Fraudulent Insurance Act, $500 or more, but less than $1500, Class IV Felony, Identity Theft, $1500 or more, Class III Felony. The Respondent entered a guilty plea to the charges of Theft by Deception, More than $1500, a Class III Felony and Fraudulent Insurance Act, $500 or more, but less than $1500, a Class IV Felony. The other two charges were dismissed. (E3).

7. Respondent failed to report this criminal action within 30 days of arraignment to the Department as required. (E2).

8. Exhibit 4, a certified copy of the Probation Order from the District Court of Sarpy County, Nebraska in Case No. CR 15-173, State of Nebraska vs. Charles D. Maynard, was delivered on December 9, 2015, and is received and made part of the record.

9. On or about October 5, 2015, the Respondent was sentenced for the crimes of Theft by Deception, More than $1500, a Class III Felony and Fraudulent Insurance Act, $500 or more, but less than $1500, a Class IV Felony. The Respondent was sentenced to sixty (60) months of probation and ordered to pay restitution in the amount of $15,440.29. (E4).

DISCUSSION

Respondent voluntarily allowed his insurance producer's license to lapse, but these proceedings provide the Department's finding that Respondent should not be allowed to hold an insurance producer's license.

Respondent's Class III Felony, Theft by Deception of more than $1500, and Class IV Felony, Fraudulent Insurance Act from $500 to $1500, with a sentence of 60 months' probation and an order to pay $15,440.29 in restitution, are sufficient grounds for revocation of his insurance producer's license, or a fine, under Neb. Rev. Stat. § 44-4059(1), which authorizes the Director of Insurance to suspend, revoke or refuse to issue or renew an insurance producer's license or levy an administrative fine if the insurance producer: . . . (b) violates any insurance law, rule, or regulation . . . (f) is convicted of a felony or a Class I, II, or III misdemeanor . . . or (h) uses fraudulent, coercive, or dishonest practices, or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

Respondent's failure to report his April 13, 2015 arraignment and failure to report his July 6, 2015 arraignment are additional grounds to revoke Respondent's insurance producer's license. Neb. Rev. Stat. § 44-4065(3) requires that "within thirty days of arraignment or date of waiver of arraignment, if waived, an insurance producer shall report to the director any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents."

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 § 44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

3. Revocation of Respondent's insurance producer license is warranted based on his violations of Neb. Rev. Stat. § 44-4059(1)(b), (f) and (h) and § 44-4065(3).

RECOMMENDED ORDER

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

Dated this 22 day of December, 2015.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

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 final Order of this Department in the matter of the State of Nebraska Department of Insurance v. Charles D. Maynard, Sr., Cause No. A-2025.

Dated this 22 day of December, 2015.

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 Respondent by mailing a copy to the registered business address at 14792 Ray Sapp Drive, Omaha, NE 68138 via regular U.S. mail and via certified mail, return receipt requested, and by regular U.S. mail and via certified mail, return receipt requested, to the registered residence address at 7229 North 39th Avenue, Omaha, NE 68112, on this 23 day of December, 2015.

Brandis J Counsel