

DEC 21 2015

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	FINDINGS OF FACT, CONCLUSIONS
DEPARTMENT OF INSURANCE,)	OF LAW, RECOMMENDED ORDER
)	AND ORDER
PETITIONER,)	
)	CAUSE NO. A-2026
VS.)	
)	
JHONNY KISHORE MANSINGHANI,)	
National Producer #8821548,)	
)	
RESPONDENT.)	

This matter came on for hearing on December 16, 2015, 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 Robert Bell. Jhonny Kishore Mansinghani (“Respondent”) was not present and was not represented by counsel. The proceedings were digitally recorded by Brandis Courser, 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 non-resident insurance producer whose registered business and home address with the Department is 8984 Snow Falls Dr., Laredo, TX 78045-8414. Respondent’s non-resident producer license expired May 31, 2015. (See Ex. 2).
3. On or about November 13, 2015, the Petition and Notice of Hearing in this matter were served upon Respondent by mailing the same to his registered business and home address via

certified mail, return receipt requested, and via regular U.S. mail. Delivery was confirmed by the certified mail Domestic Return Receipt card. (See Ex. 1).

4. On or about April 23, 2015, Scott Zager (“Zager”), Insurance Claims Investigator for the Consumer Affairs Division of the Nebraska Department of Insurance, sent a written inquiry to Respondent at his registered home and business address via regular U.S. mail. No response to this inquiry was received and the inquiry was not returned undeliverable. (See Ex. 3).

5. On or about May 26, 2015, Zager sent a follow-up inquiry to Respondent at his registered home and business address via certified mail, return receipt requested. This inquiry included a copy of the April 23, 2015 inquiry and specifically stated that failure to respond within fifteen working days may be construed as an unfair trade practice, as provided by Neb. Rev. Stat. § 44-1525(11). The United States Postal Service Domestic Return Receipt card confirmed delivery of the May 26, 2015 inquiry on June 2, 2015. (See Ex. 3)

6. Respondent did not provide a response to either the April 23, 2015 or the May 26, 2015 inquiries.

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 through 44-4067. Under Neb. Rev. Stat. § 44-4059(5), the director retains authority to enforce the 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; or (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

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. §§ 1525(11), 44-4059(1)(b), and 44-4059(1)(h).

DISCUSSION

The Department provided sufficient evidence to show that reasonable notice of these proceedings was provided to Respondent. The Nebraska Unfair Insurance Trade Practices Act states that it shall be an unfair trade practice in the business of insurance for any insurer to commit any act or practice defined in section 44-1525 if the practice (1) is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act or (2) has been committed with such frequency as to indicate a general business practice to engage in that type of conduct. Neb. Rev. Stat. § 44-1525(11) requires an insurer to respond to Department inquiry within fifteen working days of receipt of the inquiry. Evidence was presented which shows that Respondent failed to respond to multiple Department inquiries which were sent via regular U.S. mail and certified mail. Generally, the Department may rely on the United States Postal Service to deliver properly addressed mail, and evidence showing that properly addressed mail has not been returned undeliverable is sufficient to show receipt by the addressee. Further, the evidence shows that delivered mail specifically put Respondent on notice that failure to

respond within fifteen working days may be a violation of the Unfair Trade Practices Act. Therefore, the uncontested evidence shows that Respondent violated Neb. Rev. Stat. § 44-1525(11) by failing to respond to multiple Department inquiries.

Under Neb. Rev. Stat. § 44-4059(5), the director retains authority to enforce provisions of the Insurance Producers Licensing Act even if the person's license or registration has lapsed by operation of law. For the above reasons, the Hearing Officer hereby recommends that the Director find that Respondent violated Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(h) and that Respondent's insurance producer license be placed in a suspended status until such time as Respondent provides a complete response to Zager's outstanding inquiries.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska insurance producer license be placed in a suspended status until such time as Respondent provides a complete response to Zager's outstanding inquiries. 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 December, 2015.

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. Jhonny Kishore Mansinghani, NAIC Producer #8821548, Cause No. A-2026.

Dated this 21 day of December, 2015.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



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 and home address 8984 Snow Falls Dr., Laredo, TX 78045-84414, by certified mail, return receipt requested and regular U.S. mail on this 22 day of December, 2015.


