

MAY 23 2016

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-2030
VS.)	
)	
RANDALL CHALUPA)	
(NAIC National Producer #17032374),)	
)	
RESPONDENT.)	

This matter came on for hearing on May 18, 2016, 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. Randall Chalupa (“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 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 in the State of Nebraska whose registered business address with the Department is 6860 W. 121st Court, Overland Park, Kansas 66209. Respondent’s registered residence address with the Department is 11000 W. 125th Street, Overland Park, Kansas 66213. Respondent’s insurance producer license expired on October 31, 2015. (See Ex. 2).

3. On or about February 5, 2016, the Petition and Notice of Hearing were served upon Respondent by mailing the same to his registered business via certified mail return receipt requested, and to his registered home address via certified mail, return receipt requested, and via regular U.S. mail. (See Ex. 1).

4. On or about March 17, 2016, copies of a Motion for Continuance and Order Granting Motion for Continuance were served upon Respondent by mailing copies to his registered residence address via certified mail, return receipt requested and via regular U.S. mail. (See Ex. 1).

5. On or about April 18, 2016, a copy of the Notice of New Hearing Date was served upon Respondent by mailing a copy to his registered residence address via certified mail, return receipt requested and regular U.S. mail. (See Ex. 1).

6. On or about December 5, 2014, Respondent entered into a consent order with the Kansas Insurance Department under which he agreed to an involuntary surrender of his resident producer license. This consent order was the result of an administrative action filed by the Kansas Insurance Department related to a Farm Bureau Property & Casualty Insurance Company (“Farm Bureau”) report stating that Farm Bureau identified at least sixteen policies written by Respondent were fictitious, unauthorized, and/or contained incorrect personal identifiers and contact information. (See Ex. 3).

7. Under the consent order, Respondent stipulated that evidence exists to support some or all of the findings of the Farm Bureau investigation and those findings constitute sufficient cause for the Kansas Insurance Department to initiate action against his license. (See Ex. 3).

8. Respondent did not report the administrative action referenced in paragraph six to the Nebraska Department of Insurance within thirty days of the final disposition of the matter. (See 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. 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; (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 (i) having an insurance producer license, or its equivalent, denied, suspended, placed on probation, or revoked in Nebraska or in any other state.

4. Pursuant to Neb. Rev. Stat. § 44-4065(1), licensees must provide notice to the director of any administrative action taken against their licensee in another jurisdiction within thirty days of final disposition of the matter.

5. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), 44-4059(1)(i), and 44-4065(1) as a result of the conduct set forth in paragraphs six through eight of the Findings of Fact.

DISCUSSION

The Department provided sufficient evidence to show that reasonable notice of these proceedings was provided to Respondent. The uncontested evidence provided by the Department

indicates that Respondent has been subject to administrative action in another jurisdiction which has not been reported to the Department of Insurance as required by Neb. Rev. Stat. § 44-4065(1). This administrative action resulted in the involuntary surrender of Respondent's resident producer license on the basis of writing fictitious or unauthorized business. Such a revocation constitutes a violation of Neb. Rev. Stat. § 44-4059(1)(i) and demonstrates incompetence and untrustworthiness in the conduct of business in this state and elsewhere. These violations are more than sufficient to justify revocation of Respondent's Nebraska non-resident insurance producer license. In light of the violations described above, the Hearing Officer hereby recommends that Respondent's non-resident insurance producer license be revoked.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska non-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 20th day of May, 2016.

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. Randall Chalupa (NAIC National Producer #17032374), Cause No. A-2030.

Dated this 23 day of May, 2016.

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 residence address, 11000 W. 125th Street, Overland Park, Kansas 66213, via certified mail, return receipt requested and regular U.S. mail on this 23 day of May, 2016.

