

JUL 18 2016

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
PETITIONER,	)	RECOMMENDED ORDER AND
	)	ORDER
VS.	)	
	)	
ANDREW SUTTER	)	CAUSE NO. A-2040
(NAIC National Producer #17906767),	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on July 7, 2016, 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 Andrew Sutter 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, 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. Respondent’s registered business address with the Department is 2809 South 160<sup>th</sup> Street, Suite 201, Omaha, NE 68130. Respondent’s registered residence address with the Department is 1901 Annette Lane, Lincoln, NE 68512. (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 Petition and Notice of Hearing in this matter were served upon Respondent at his registered home address and his registered business address. (E1).

4. On or about March 8, 2016, in the U.S. District Court for the District of Nebraska, Case No. 4:16-CR-3016, Respondent pled not guilty to a violation of 18 U.S.C. § 641. The only Count in the Indictment in this case alleged that Defendant willfully and knowingly did steal, purloin, and convert to his own use, approximately \$15,069.47 from the Internal Revenue Service. (E3). Based on Defendant's exposure to a sentence of not more than ten years under 18 U.S.C. § 641, and the sentencing classification of offenses at 18 U.S.C. § 3559, Defendant is charged with a Class D felony.

5. As of July 7, 2016, the records of the U.S. District Court for the District of Nebraska indicated that Case No. 4:16-CR-3016 was set for trial on July 11, 2016. (E3).

6. On or about April 10, 2016, Respondent submitted an application for an individual producer license to the Department. In response to the question, "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?" Respondent answered, "No." Respondent certified that, under penalty of perjury, all of the information in the application was true and complete. The attestation included a statement, "I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties. (E2).

7. As of July 7, 2016, Respondent had not reported to the Department any pending criminal actions taken against him.

#### 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. Pursuant to Neb. Rev. Stat. § 44-4059(1), the Director of Insurance has authority to suspend, revoke or refuse to issue or renew an insurance producer's license or levy an administrative fine if the insurance producer: (a) provides incorrect, misleading, incomplete, or materially untrue information in a license application, (b) violates any insurance law or any rule, regulation, subpoena, or order of the Director or of another state's insurance commissioner or director, and (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 conduct with regard to his application for an insurance producer's license, as set forth in paragraphs 4, 5, 6 and 7 of the Findings of Fact above, violated § 44-4059(1)(a), (b), and (h).

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

#### 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 11<sup>th</sup> day of July, 2016.

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. Andrew Sutter, Cause No. A-2040.

Dated this 18 day of July, 2016.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



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 Respondent's registered business address, 2809 South 160<sup>th</sup> Street, Suite 201, Omaha, NE 68130, and to Respondent's registered residence address, 1901 Annette Lane, Lincoln, NE 68512, via regular U.S. mail and via certified mail, return receipt requested, on this 18 day of July, 2016.

