

NOV 23 2016

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	
BRITTANY C. OUELLETTE)	CAUSE NO. A-2046
(NAIC National Producer #17756373),)	
)	
RESPONDENT.)	

This matter came on for hearing on November 15, 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, Matthew W. Holman. Respondent Brittany Ouellette was not present and was not represented by an attorney. The proceedings were recorded by Brandis Courser, a licensed Notary Public. Exhibits 1 through 4 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 2909 N. 118th Street, FL 3, Omaha, NE 68164. Respondent’s registered residence address with the Department is 15030 Giles Rd. #307, Omaha, NE 68138. (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 her registered home address and her registered business address. (E1).

4. Exhibit 3, the Affidavit of AAA Life Insurance Company Director of Compliance, establishes the following:

a. Between July 13, 2016 and July 19, 2016, while working as an appointed insurance agent for AAA Life Insurance Company, Respondent used either her private email address or an electronic drop box program to send herself confidential client information related to nine separate clients, including the clients' names, addresses, credit card numbers, and credit card expiration dates. Respondent was not authorized by AAA Life Insurance Company to transmit client information to her personal computer. (E3).

b. On or about July 25, 2016, AAA Life Insurance Company discovered the unsecured transactions using a digital loss prevention tool, and on or about July 27, 2016, Respondent's employment with AAA Life Insurance Company was terminated. (E3).

c. The Director of Compliance for AAA Life Insurance Company followed up with affected individuals. Three of the affected customers reported suspicious activity on their credit cards occurring between July 13, 2016 and August 10, 2016. The reports included a refused charge of \$385 for one customer, six unauthorized charges totaling \$1700 for another customer, and unauthorized charges totaling \$1800 for the third affected customer. (E3).

5. Respondent did not inform the Department of Insurance within thirty days of her termination from AAA Life Insurance Company that her business address had changed. (E2), (E3).

6. Exhibit 4, the Affidavit of Jane Francis, Administrator of the Department's Consumer Affairs Division, establishes the following:

a. On or about August 25, 2016, Ms. Francis, sent a written inquiry to Respondent at Respondent's home address. (E4).

b. On or about September 20, 2016, the August 25, 2016 mailing was returned to the Department marked “return to sender, unclaimed, unable to forward.” (E4).

c. To date, Respondent has not provided a response to the August 25, 2016 inquiry. (E4).

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: ... (b) violates any insurance law, rule, or regulation, ... (d) improperly withholds, misappropriates, or converts any money or property received in the course of doing insurance business; 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 theft of insurance client personal and credit card information, as set forth in paragraph 4 of the Findings of Fact above, violated § 44-4059(1)(b), (d), and (h).

4. Pursuant to Neb. Rev. Stat. § 44-4054(8), licensees are required to inform the director of a change of legal name or address within thirty days after the change. Respondent’s failure to inform the director that her business address had changed within thirty days of her termination from AAA Life Insurance Company, as set forth in paragraph 5 of the Findings of Fact above, is a violation of § 44-4054(8).

5. Pursuant to Neb. Rev. Stat. § 44-1525(11), failure to respond to a written inquiry from the Department of Insurance within fifteen days of receipt, if committed in violation of § 44-1524, constitutes an unfair insurance trade practice. Respondent’s failure to respond to an inquiry from Jane

Francis, Administrator of the Department's Consumer Affairs Division, within fifteen days of receipt, as set forth in paragraph 4 of the Findings of Fact above, violated § 44-1525(11).

6. Revocation of Respondent's insurance producer license is warranted based on her violations of Neb. Rev. Stat. § 44-4059(1)(b), (d) and (h), § 44-4054(8) and § 44-1525(11).

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 23 day of November, 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. Brittany C. Ouellette, Cause No. A-2046.

Dated this 23 day of November, 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 residence address with the Department, 15030 Giles Rd. #307, Omaha, NE 68138, by certified mail, return receipt requested on this 23 day of November, 2016.


