

NOV 21 2016

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, RECOMMENDED ORDER
PETITIONER,)	AND ORDER
)	
VS.)	CAUSE NO. A-2047
)	
EUGENE HAROLD WRAY III)	
(NAIC National Producer #7498947),)	
)	
RESPONDENT.)	

This matter came on for hearing on November 15, 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, Robert M. Bell. Eugene Harold Wray III (“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 is a licensed nonresident insurance producer in the State of Nebraska whose registered business address with the Department is 12811 Q Street, Suite 1, Omaha, NE 68137 and whose registered residence address with the Department is 2406 Avenue D, Council Bluffs, IA 51501-2222. Respondent was first licensed in Nebraska on March 26, 2003. (Ex. 3)

3. On or about October 4, 2016, a Petition and Notice of Hearing were properly served upon Respondent via certified mail, return receipt requested, and via regular U.S. mail. (Ex. 1)

4. On or about December 8, 2014, Respondent was arraigned in the Iowa District Court in and for Pottawattamie County on charges of unlawful possession of explosives without license, a class "C" felony. (Ex. 2)

5. On or about June 1, 2015, Respondent plead guilty and was issued a deferred judgment and placed on probation in the above referenced case. (Ex. 2)

6. On or about August 1, 2015, Respondent submitted a non-resident insurance producer license renewal application to the Nebraska Department of Insurance on which he stated he had not been convicted of a misdemeanor or had a judgment withheld or deferred, and that he is not currently charged with committing a misdemeanor, which had not previously been reported to the Department. On the application, Respondent also stated that he had not been convicted of a felony or had a judgment withheld or deferred, and that he is not currently charged with a felony, which had not been previously reported to the Department. (Ex. 3)

7. On or about October 8, 2015, Respondent was convicted of violating his probation in the above referenced case. (Ex. 2)

8. On or about May 25, 2016, the Financial Industry Regulatory Authority ("FINRA") permanently barred Respondent from association with any FINRA member in any capacity. (Ex. 2)

9. To date, Respondent has not reported any of the above referenced actions to the Department of Insurance. (Ex. 3)

10. On or about July 26, 2016, Jane Francis ("Francis"), Administrator for the Consumer Affairs Division of the Nebraska Department of Insurance, mailed an inquiry to Respondent at

Respondent's registered residence address via regular U.S. mail which specifically notified Respondent of the duty to respond within fifteen working days. (Ex. 4)

11. On or about August 23, 2016, Francis sent a second inquiry to Respondent at Respondent's registered business address via certified mail, return receipt requested. (Ex. 4)

12. On or about August 29, 2016, the Domestic Return Receipt for the certified correspondence was returned to the Department confirming delivery. (Ex. 4)

13. To date, Respondent has not reported any criminal or administrative action taken against him, nor has he responded to any of the inquiries described in paragraphs 8 through 11. (Exs. 3 and 4)

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.

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 of the following causes: (a) providing incorrect, misleading, incomplete, or materially untrue information in the license application; (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 . . . (f) having been convicted of a felony or a class I, II, or III misdemeanor; . . . 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. § 44-4065(1), licensees must report to the director any administrative action taken against the producer in another jurisdiction within thirty days of the final disposition of the matter, including actions taken by a professional self-regulatory organization such as the Financial Industry Regulatory Authority.

5. Pursuant to Neb. Rev. Stat. §44-4065(3), licensees must, within thirty days of the date of arraignment or date of waiver of arraignment, report to the director any criminal prosecution taken against them in any jurisdiction.

6. 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.

7. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(a), 44-4059(1)(b), 44-4059(1)(f), 44-4059(1)(h), 44-4065(1), and 44-4065(3) as a result of the conduct set forth in paragraphs 4 through 9 of the Findings of Fact.

8. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), and 44-1525(11) as a result of the conduct set forth in paragraphs 10 through 13 of the Findings of Fact.

DISCUSSION

The uncontested evidence provided by the Department indicates that Respondent was subject to multiple administrative actions and criminal prosecutions between December 2014 and May 2016. Respondent is required by law to report these actions to the Nebraska Department of Insurance and failed to do so. Respondent further submitted a renewal application to the Department which falsely stated he has not been convicted of a felony or misdemeanor. Finally, Respondent has refused to

respond to multiple inquiries from the Department's Consumer Affairs Division requesting information about the criminal and administrative actions. Respondent is operating in a highly regulated industry, but clearly shows no regard for the regulating entity. Any one of the above referenced violations would be sufficient to revoke Respondent's insurance producer license. Taken in total, it is clear that Respondent is not fit to hold an insurance produce license in the State of Nebraska.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska nonresident 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 16 day of November, 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. Eugene Harold Wray III (NAIC National Producer #7498947), Cause No. A-2047.

Dated this 21 day of November, 2016.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Bruce R. Ramage
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 business address, Primerica, 12811 Q Street, Suite 1, Omaha, NE 68137, via certified mail, return receipt requested and regular U.S. mail and to his registered residence address, 2406 Avenue D, Council Bluffs, IA 51501-2222, via certified mail, return receipt requested and regular U.S. mail on this 21 day of November, 2016.

