

JUN 23 2017

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-2070
	)	
DIANA WISNIEWSKI	)	
(NAIC National Producer #11295353),	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on June 22, 2017, 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. Diana Wisniewski (“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 current registered business and residence address with the Department is 20 Springmeadow Drive, Kings Park, NY 11754. Respondent’s non-resident insurance producer license expired April 30, 2017. (See Ex. 2).

3. On or about May 15, 2017 the Petition and Notice of Hearing were served upon Respondent by mailing the same to her registered business and home address via certified mail return receipt requested, and via regular U.S. mail. (See Ex. 1).

4. On or about March 6, 2015, Respondent was charged in the United States District Court for the District of New Jersey in case 1:15-cr-00117-JBS and subsequently pled guilty to Conspiracy to Commit Wire Fraud, a Class D Felony. On or about January 13, 2016, Respondent was sentenced to five years probation and ordered to pay restitution of \$501,025.05. (See Ex. 2 and 3).

5. Between May 17, 2016 and December 30, 2016, Respondent was subject to administrative action resulting in the revocation or suspension of her insurance producer license in California, Georgia, Washington, and New Hampshire. (See Ex. 2).

6. Respondent failed to report the above referenced criminal prosecution to the Nebraska Department of Insurance within thirty days of arraignment as is required by law. (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)(b), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for violating any insurance law or

violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director.

4. Pursuant to Neb. Rev. Stat. § 44-4059(1)(f), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for a producer having been convicted of a felony or a Class I, II, or III misdemeanor.

5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(h), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

6. Pursuant to Neb. Rev. Stat. § 44-4059(1)(i), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for having an insurance producer license or its equivalent denied, suspended, placed on probation, or revoked in Nebraska or any other state, province, district, or territory.

7. Pursuant to Neb. Rev. Stat. § 44-4065(3), licensees must provide notice to the director of any criminal prosecution action taken against the licensee in any jurisdiction within thirty days of arraignment or waiver of arraignment.

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

### DISCUSSION

The uncontested evidence provided by the Department shows that Respondent has pled guilty to Conspiracy to Commit Wire Fraud and had her insurance producer license revoked in multiple jurisdictions. Further, Respondent failed to properly notify the Department of these actions. This


conduct is more than sufficient to justify revocation of Respondent's non-resident insurance producer license.

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 23 day of June, 2017.

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. Diana Wisniewski (NAIC National Producer #11295353), Cause No. A-2070.

Dated this 23 day of June, 2017.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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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 residence address, 20 Springmeadow Drive, Kings Park, NY 11754 via certified mail, return receipt requested and regular U.S. mail on this 26 day of June, 2017.

  
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