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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-2160
)	
KISHAN RAO,)	
(NAIC Producer #18313279),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on December 13, 2018, before Robert E. Harkins, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) was represented by its counsel, Krystle Ledvina Garcia. Kishan Rao (“Respondent”) was not present and was not represented by counsel. The proceedings were recorded by Brandis Bauer, 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 non-resident insurance producer in the State of Nebraska whose current registered business address with the Department is 3645 Thirlane Road, Roanoke, VA 24019, and whose current registered residence address with the Department is 3317 Circle Brook Drive, Apt. H, Roanoke, VA 24018-8242. (Ex. 2, Attachment 1).

3. On or about November 8, 2018, the Petition and Notice of Hearing was served upon Respondent by mailing the same to his registered business and residence addresses, by certified mail return receipt requested, and via regular U.S. mail. (Ex. 1).

4. On or about November 20, 2018, the return receipt card attached to the Petition and Notice of Hearing sent to Respondent's registered residence address was returned to the Department confirming delivery (Ex. 1, Attachment 1).

5. On or about November 5, 2017, the Department learned a criminal action had been taken against Respondent in Virginia. Respondent had been charged with Eluding the Police, a felony, and a misdemeanor speeding violation. (Ex. 2, Attachment 2)

6. On or about April 4, 2018, the Department sent Respondent a written inquiry seeking an update on his pending criminal charges within 15 business days. The Department sent the inquiry to Respondent's registered residence address via regular U.S. mail, and said inquiry was not returned to the Department. (Ex. 2, Attachment 3)

7. On or about April 30, 2018, the Department sent a second written inquiry to Respondent seeking an update on his criminal charges within 15 business days. The Department sent this inquiry to Respondent's registered residence address via Certified Mail, Return Receipt requested. (Ex. 2, Attachment 4)

8. On or about May 21, 2018, the return receipt was returned to the Department, confirming delivery. (Ex. 2, Attachment 5)

9. To date, Respondent has failed to respond to either of the Department's inquiries. (Ex. 2)

10. On or about April 24, 2018, in the Circuit Court of Warren County Virginia, Respondent was convicted of the felony charge of Eluding the Police. (Ex. 3)

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)(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 having been convicted of a felony, or a Class I, II, or III misdemeanor.
5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(g), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for having admitted or have been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud.
6. 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.
7. Pursuant to Neb. Rev. Stat. §§ 44-1525(11) and 44-1524, failure of an insurer, upon receipt of a written inquiry from the department, to respond to such inquiry within fifteen working

days shall be an unfair trade practice if the act or practice is committed flagrantly and in conscious disregard of the Unfair Trade Practices Act or has been committed with such frequency to indicate a general business practice to engage in that conduct.

8. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(f), 44-4059(1)(g), 44-4059(1)(h), and 44-1525(11), as a result of the conduct set forth in paragraphs 5 through 10 of the Findings of Fact.

DISCUSSION

The Department presented sufficient evidence to show Respondent received proper notice of these proceedings. The uncontested evidence shows Respondent failed to respond to several Department inquiries regarding his criminal conduct, and also that Respondent was convicted of a felony charge in Virginia. Respondent's repeated failure to reply to inquiries from the Department is sufficient to show that his lack of response was committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act.

In addition, the Respondent's felony conviction, standing alone, constitutes sufficient grounds to discipline his Nebraska non-resident producer license. Finally, Respondent's felony conviction, and willful disregard of Department inquiries, clearly demonstrate a high level of dishonesty and untrustworthiness incompatible with the high ethical and moral standards required of a licensed insurance producer.

Based on the serious nature of the evidence presented, and considering the totality of the circumstances involved, revocation of Respondent's non-resident insurance producer license is appropriate in this case.

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 31st day of December, 2018.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Robert E. Harkins
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. Kishan Rao (NAIC Producer #18313279), Cause No. A-2160.

Dated this 3 day of January, 2019.

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 the Respondent by mailing a copy to Respondent's registered residence address, 3317 Circle Brook Drive, Apt. H, Roanoke VA 24018-8242, via certified mail, return receipt requested and via regular U.S. mail and to Respondent's registered business address, 3645 Thirlane Road, Roanoke VA 24019, via regular U.S. mail on this 3 day of January, 2019.


