

JAN 28 2019

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-2168
)	
JEREMY P. RUTHERFORD)	
(NAIC Producer #17084447),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on January 10, 2019, before Krystle Ledvina Garcia, 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, Robert Harkins. Jeremy Rutherford (“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 resident insurance producer in the State of Nebraska whose current registered business and residence address with the Department is 13075 Sky Park Drive, Omaha, NE 68137-4344. Respondent’s registered email address with the Department is rutherford.jeremy@gmail.com. (See Ex. 2).

3. On or about November 30, 2018, the Petition and Notice of Hearing were served upon Respondent by mailing the same to his registered business and residence address, by certified mail return receipt requested, and via regular U.S. mail. (See Ex. 1).

4. On or about December 6, 2018, the Domestic Return Receipt attached to the Petition and Notice of Hearing mailed to Respondent's registered business and home address was returned to the Department by the United States Postal Service ("USPS") confirming delivery. The correspondence sent to Respondent's registered business and home address via regular U.S. mail has not been returned to the Department, nor has the Department received notification that the letter was undeliverable. (See Ex. 1).

5. On or about August 13, 2018, an employee in the Department's Consumer Affairs Division ("CAD"), sent an email to Respondent at Respondent's registered email address requesting he update his contact information with the Department. Respondent exchanged emails with CAD and confirmed that his correct address is 13075 Sky Park Drive, Omaha, NE 68137-4344. (See Ex. 4).

6. On or about August 30, 2018, CAD sent a letter to Respondent at his registered address via regular U.S. mail requesting information regarding a consumer complaint. The letter explained that failure to respond within fifteen days was a violation of Nebraska law. To date a response has not been received to the inquiry. This letter has not been returned to the Department by the USPS, nor has the Department received notification that it was undeliverable. (See Ex. 3).

7. On or September 19, 2018, CAD sent an email to Respondent at his registered email address via electronic mail and included a copy of the August 30, 2018 letter. To date a response has not been received to the inquiry. (See Ex. 3).

8. On or about October 1, 2019, CAD sent an email to Respondent at his registered email address via electronic mail. To date a response has not been received to the inquiry. (See 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. §§ 44-1525(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.
4. 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.
5. Pursuant to Neb. Rev. Stat. § 44-4059(1)(g), the director may impose a fine, suspend or revoke an agent's license if that person has 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. Respondent violated Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(h) as a result of the conduct set forth in paragraphs 6 through 8 of the Findings of Fact.

DISCUSSION

The uncontested evidence shows that the Department contacted Respondent via U.S. mail and via electronic mail at the addresses registered with the licensing division on several occasions. Respondent corresponded with the Department via electronic mail in August and then subsequently failed to respond to additional communication at the same email address approximately one month later. Respondent's repeated failure to reply to the numerous 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. His lack of response has impeded the Department's ability to timely and effectively address consumer complaints. This conduct is unacceptable of an individual licensed by the Department. The Department's attorney generously recommended Respondent be given a fine and have his license suspended until the Department receives a response to the inquiry. This Hearing Officer will accept the recommendation and impose a \$2,000 fine and license suspension upon Respondent.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's Nebraska resident insurance producer license be placed on suspended status and Respondent shall pay an administrative penalty of \$2,000. Such license shall not be reinstated until such time as Respondent provides complete responses to Department of Insurance inquiries and pays an administrative penalty of \$2,000. 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 20th day of January, 2019.

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STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Krystle Ledvina Garcia
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. Jeremy P. Rutherford (NAIC Producer #17084447), Cause No. A-2168.

Dated this 28 day of January, 2019.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



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, 13075 Sky Park Drive, Omaha, NE 68137-4344, via certified mail, return receipt requested and via regular U.S. mail on this 28 day of January, 2019.

