

JAN 14 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-2169
)	
LYNDA JONES,)	
(NAIC Producer #18411810),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on January 10, 2019, 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. Lynda Jones (“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 8725 W. Sahara Ave., Las Vegas NV 89117, and whose current registered residence address with the Department is 8600 W. Charleston Blvd., Apt. 1189, Las Vegas NV 89117-5414. (Ex. 2, Attachment 1)

3. On or about December 13, 2018, the Petition and Notice of Hearing were served upon Respondent by mailing the same to her registered business and home addresses, by Certified Mail return receipt requested, and via regular U.S. mail. (Ex. 1)

4. On or about December 20, 2018, the return receipt card attached to the Petition and Notice of Hearing was returned to the Department confirming delivery. (Ex. 1, Attachment 1)

5. On or about May 17, 2017, Respondent applied for a Nebraska non-resident producer license. The application contained the following question: "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?" Respondent answered "no" to this question. Based on the information provided in the application, the Department approved Respondent's application for licensure. (Ex. 2, Attachment 3)

6. On or about February 17, 1987, Respondent pled guilty to felony grand theft of personal property in Los Angeles, CA, and was sentenced to 11 days in jail and 5 years of probation. (Ex. 2, Attachment 7)

7. On or about January 9, 2018, in cause No. 17.0413, the Nevada Commissioner of Insurance issued an Order Granting Written Consent allowing Respondent to engage in the business of insurance, pursuant to 18 U.S.C. §§1033 and 1034. The Commissioner concluded Respondent appeared to have been rehabilitated based upon her discharge from probation and the length of time without any criminal charges or convictions since her 1987 conviction. (Ex. 2, Attachment 4)

8. On or about March 27, 2018, the Department sent a written inquiry to Respondent seeking additional information regarding the Nevada Order as well as an explanation regarding her failure to disclose her criminal conviction on her Nebraska application. The Department mailed this inquiry to Respondent's registered residence address via regular U.S. mail. The inquiry was not returned to the Department, nor did the Department receive notice the inquiry was undeliverable. The

inquiry contained language advising Respondent that failure to respond within 15 working days may be considered a violation of the Nebraska Unfair Insurance Trade Practices Act. (Ex. 2, Attachment 5)

9. On or about August 8, 2018, the Department sent a second written inquiry to the Respondent at her residence address via Certified Mail, return receipt requested. The receipt was later returned to the Department, confirming delivery. The second inquiry also contained a warning regarding the consequences of failing to respond within fifteen working days. (Ex. 2, Attachment 6)

10. Respondent failed to respond to either inquiry within 15 working days. (Ex. 2)

11. On or about November 5, 2018, after Respondent's failure to respond to the Department's inquiries, the Department requested additional information regarding Respondent's criminal history from the Nevada Division of Insurance. (Ex. 2, Attachment 7)

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)(a), the director may suspend or revoke an insurance producer's license, or may levy an administrative fine for providing incorrect, misleading, incomplete, or materially untrue information in the license application.

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 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. Pursuant to Neb. Rev. Stat. §44-1529, the Director may revoke or suspend an insurer's license who has engaged in an unfair trade practice.

9. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(a), 44-4059(1)(b), 40-4059(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 seeking additional information about her past criminal conduct and an explanation for providing false information on her license application. Respondent's repeated failure to reply to inquiries from the Department is sufficient to show that her lack of response was committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act.

The Department has granted Respondent a license to operate in a highly regulated industry. The public trust placed in licensed producers requires them to act with the highest levels of integrity, honesty, and fair dealing at all times. The Department relies on applicants to provide complete and accurate information on their license applications. The fact Respondent misled the Department in her first act as a potential licensed producer is disquieting and calls into doubt Respondent's fitness to enter into the public trust.

In addition, Respondent's failure to respond to the Department's legitimate inquiries, and the demonstrably false statement made on her license application, clearly demonstrate a high level of dishonesty and untrustworthiness incompatible with the high ethical and moral standards required of a licensed insurance producer. It is also troubling that Respondent chose not to participate in these proceedings, and one can safely conclude Respondent has no interest in maintaining her Nebraska non-resident producer license.

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 14th day of January, 2019.

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. Lynda Jones (NAIC Producer #18411810), Cause No. A-2169.

Dated this 14 day of January 2019.

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 registered home address, 8600 W. Charleston Blvd., Apt. 1189, Las Vegas NV 89117-5414, via certified mail, return receipt requested and to Respondent's registered business address, 8725 W. Sahara Ave., Las Vegas NV 89117, via regular U.S. mail on this 14 day of January, 2019.


