

SEP 13 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-2189              |
|                                    | ) |                               |
| DIANNE KOOL,                       | ) |                               |
| (NAIC National Producer #8709447), | ) |                               |
|                                    | ) |                               |
| RESPONDENT.                        | ) |                               |

This matter came on for hearing on August 29, 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 attorney, Robert Harkins. Dianne Kool (“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 address with the Department is 4230 South 33rd Street, Suite 103, Lincoln, NE 68506, and whose registered residence address with the Department is 7229 Whitewater Lane, Lincoln, NE 68521. Respondent’s registered email address with the Department is

dlkool@outlook.com. Respondent's registered phone number with the Department is (402) 429-5970. (See Ex. 2, Attachment 1).

3. On or about July 25, 2019, the Petition and Notice of Hearing were served upon Respondent by mailing the same to her registered business and residence addresses, by certified mail return receipt requested, and via regular U.S. mail. (See Ex. 1).

4. On or about August 1, 2019, the Petition and Notice of Hearing mailed to Respondent's registered residence address was returned to the Department by the United States Postal Service ("USPS") as "Return to Sender. Attempted-Not Known." (See Ex. 1, Attachment 1).

5. On or about August 8, 2019, the Petition and Notice of Hearing mailed to Respondent's registered business address was returned to the Department by the USPS as "Return to Sender. Attempted-Not Known." (See Ex. 1, Attachment 2).

6. On or about December 21, 2018, Nate Dobler ("Dobler"), Insurance Claims Investigator for the Department, sent a letter to Respondent at her registered email address regarding her termination for cause from her appointed insurer and required a response within fifteen working days. Dobler did not receive notice that the email was undeliverable and did not receive a response. (See Ex. 3, Attachment 1).

7. On or about December 21, 2018, Dobler sent a letter to Respondent at her registered residence address via regular U.S. mail. On or about January 4, 2019, the letter was returned to the Department by the USPS as "Moved Left No Address. Unable to Forward. Return to Sender." (See Ex. 3, Attachment 3).

8. Dobler performed an address search on the National Association of Insurance Commissioners' Internet-State Interface Technology Enhancement website and obtained a list of addresses for Respondent. On or about April 10, 2019, Dobler sent a letter to Respondent at 7019

North 15th Street, Lincoln, NE 68521 via certified U.S. mail. On or about April 15, 2019, that letter was returned by the USPS as “Return to sender. Unable to forward.” (See Ex. 3, Attachment 4 & Attachment 8).

9. In May and June 2019, Dobler attempted to contact Respondent via telephone on four separate occasions. The voicemail greeting confirmed the number belonged to Respondent. Dobler left four voicemail messages for Respondent and requested she return his call. Dobler never received a response to these messages. (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. § 44-4059(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)(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.

5. Pursuant to Neb. Rev. Stat. § 44-4054(8), the director may suspend an insurance producer’s license or may levy an administrative fine for failing to inform the director of a change of address within thirty days after the change.

6. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), and 44-4054(8), as a result of the conduct set forth in paragraphs 6 through 9 of the Findings of Fact.

#### DISCUSSION

The Department provided evidence of its attempt to provide the Respondent with notice of these proceedings by certified mail, return receipt requested, and by regular U.S. mail to Respondent's registered business and residence addresses. As such, reasonable notice was provided to Respondent.

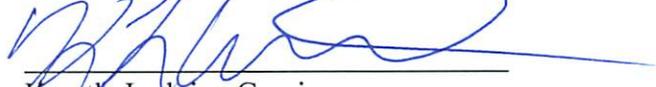
The totality of the evidence presented indicates that the Department attempted to contact Respondent via U.S. mail at the addresses registered with the licensing division on several occasions beginning in December 2018. These letters were returned to the Department because Respondent no longer worked or lived at the registered addresses. The Department was unable to make contact as Respondent failed to provide the Department with her updated addresses as required by Neb. Rev. Stat. § 44-4054(8). In addition, the Department attempted to contact Respondent via email and telephone several times to obtain a response to the inquiries. Respondent failed to respond to the email or return the investigator's phone calls. Failing to return calls from one's licensing entity demonstrates untrustworthiness and incompetence in the business of insurance in violation of Neb. Rev. Stat. § 44-4059(1)(h).

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent pay a five hundred dollar (\$500) fine and Respondent's Nebraska resident insurance producer license be suspended until she updates her addresses with the Department, responds to the Department's inquiries, and pays the administrative fine assessed in this action. 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 12<sup>th</sup> day of September, 2019.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
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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. Dianne Kool (NAIC Producer #8709447), Cause No. A-2189

Dated this 13 day of September, 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 business address, 4230 South 33rd Street, Suite 103, Lincoln, NE 68506, and registered residence address 7229 Whitewater Lane, Lincoln, NE 68521, via certified mail, return receipt requested and via regular U.S. mail on this 16 day of September, 2019.

  
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