

DEC 13 2019

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	CONSENT ORDER
PETITIONER,)	
)	
VS.)	CAUSE NO. A-2196
)	
JAY KUCHTA)	
(NAIC National Producer #18571715))	
)	
RESPONDENT.)	

In order to resolve this matter, the Nebraska Department of Insurance (“Department”), by and through its attorney, Tracy A. Burns, and Jay Kuchta (“Respondent”) mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. § 44-101.01 and the Insurance Producers Licensing Act, Neb. Rev. Stat. §§ 44-4047 to 4067.

2. Respondent was a licensed insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a Petition and Notice of Hearing captioned State of Nebraska Department of Insurance vs. Jay Kuchta (NAIC National Producer #18571715), Cause No. A-2196, on November 12, 2019.

2. The Department mailed a copy of the Petition and Notice of Hearing to the business address Respondent registered with the Department, 2809 S. 160th Street, Suite 201, Omaha, NE 68130, and to the home address Respondent registered with the Department, 15757 Rosewood

Street, Omaha, NE 68136. by first class and certified mail, return receipt requested. Respondent received a copy of the Petition and Notice of Hearing.

3. The Petition alleges that Respondent violated Neb. Rev. Stat. §§ 44-1525(2); 44-4059(1)(b); 44-4059(1)(g); and 44-4059(1)(h) as follows:

- a. On or about September 26, 2019, Petitioner was notified that Respondent had circulated fliers for a seminar titled “2020 Medicare Updates and Get Ready for Annual Enrollment.” The program was scheduled for the evening of September 26, 2019. Centers for Medicare and Medicaid Services (“CMS”) general marketing requirements do not allow marketing for an upcoming plan year prior to October 1.
- b. CMS general marketing requirements also state, in part, that educational events must be explicitly advertised as educational.
- c. On or about September 27, 2019, a copy of the flier was provided to Respondent’s employer, American Senior Benefits (“ASB”).
- d. On or about October 2, 2019, ASB and Respondent provided responses to the complaint. ASB did not authorize this flier or the use of ASB’s logo on the material. Respondent admitted responsibility for the flier including the early presentation date, potentially misleading verbiage, and not receiving CMS, AHIP or ASB approval prior to use of the flier.

4. Respondent was informed of his right to a public hearing. Respondent waives that right and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent admits to the allegations in paragraph 3.

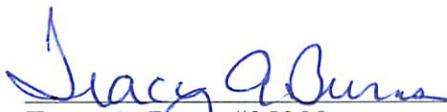
CONCLUSIONS OF LAW

Respondent violated Neb. Rev. Stat. §§ 44-1525(2); 44-4059(1)(b); 44-4059(1)(g); and 44-4059(1)(h) and is subject to disciplinary action pursuant to Neb. Rev. Stat. § 44-4059.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by the Respondent, Jay Kuchta, that Respondent agrees to pay an administrative fine in the amount of five hundred dollars (\$500.00) within sixty (60) days from the date of the adoption of this Consent Order by the Director of the Department of Insurance.

In witness of their intention to be bound by this Consent Order, the parties have executed this document by subscribing their signatures below.


Tracy A. Burrs #25398
Attorney for Petitioner
1135 M Street, Suite 300
Lincoln, NE 68508
402-471-2201

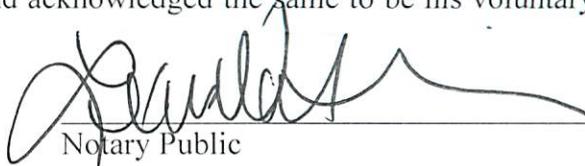
Dec. 13, 2019
Date

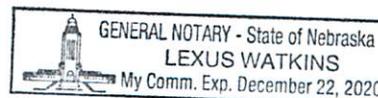

Jay Kuchta
Respondent

12/10/2019
Date

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On this 10 day of December, 2019, Jay Kuchta personally appeared before me and read this Consent Order, executed the same, and acknowledged the same to be his voluntary act and deed.


Notary Public



CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of the State of Nebraska Department of Insurance v. Jay Kuchta, NAIC National Producer Number #18571715, Cause No. A-2196.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Bruce R. Ramge
BRUCE R. RAMGE
Director of Insurance

12-13-2019
Date

CERTIFICATE OF SERVICE

I hereby certify that fully executed copies of this Consent Order were served upon Respondent as follows:

Via Regular and Certified Mail
Jay Kuchta
15757 Rosewood Street
Omaha, NE 68136

On this 16th day of December, 2019.

Jay A. Bunn