

MAR 17 2020

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.)	
)	
EMMANUEL PEREZ)	CAUSE NO. A-2204
(NAIC Producer #18840994))	
)	
RESPONDENT.)	

This matter came on for hearing on March 12, 2020, before Tracy A. Burns, 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. Emmanuel Perez (“Respondent”) was not present and was not represented by counsel. The proceedings were recorded by Shelly Storie, 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 registering motor club representatives pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-3701 to 44-3721.
2. Respondent is a resident motor vehicle club representative registered under the laws of the State of Nebraska. Respondent holds a registration to engage in the business of motor club representative at all times hereto.
3. On or about October 24, 2019, Kevin Schlautman (“Schlautman”), Administrator of the Producer’s Licensing Division, found that Respondent was convicted of two separate felonies: 1st degree Sexual Assault of a Child and Incest with a person under the age of 18 on October 23, 2019, in the District Court of Lancaster County, Nebraska. (Ex. 2, Attachment 2).

4. On or about January 3, 2020, the Petition and Notice of Hearing was served upon the Respondent by mailing the same to the Nebraska Department of Corrections by certified mail, return receipt requested, and by regular U.S. mail. The Petition and Notice of Hearing were also served by mailing the same to Respondent's address of record by certified mail, return receipt requested, and by regular U.S. mail. Respondent received the Petition and Notice of Hearing on or about January 10, 2020, as evidenced by the signed Domestic Return Receipt returned to the Department on or about January 13, 2020. (Ex. 1).

5. On or about February 10, 2020, the Motion for Continuance and the Order Granting the Motion for Continuance was served by mailing the same to Respondent at the Nebraska Department of Corrections by certified mail, return receipt requested, and by regular U.S. mail. Respondent received the Motion for Continuance and Order Granting the Motion for Continuance on or about February 12, 2020, as evidenced by the signed Domestic Return Receipt returned to the Department on or about February 13, 2020. (Ex. 1, attachment 1).

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over Respondent as a motor club representative registered in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-3701 to 44-3721.

2. Respondent received proper Notice of these proceedings.

3. Pursuant to Neb. Rev. Stat. § 44-3716(2), a club representative shall furnish information concerning his or her identity ... personal history, and such other information the director deems pertinent and germane. Neb. Rev. Stat. § 44-3716(2)(b) states the club representative shall be a trustworthy person of good repute.

4. Pursuant to Neb. Rev. Stat. § 44-3717, after a hearing and for good cause shown, the Director may revoke or suspend the club representative's authority.

5. Respondent's two felony convictions and failure to notify the Department of the same as described in paragraph 3 of the Findings of Fact are representative of Respondent's untrustworthiness and not being of good repute pursuant to Neb. Rev. Stat. § 44-3716(2)(b) therefore Respondent's registration is subject to revocation or suspension pursuant to Neb. Rev. Stat. § 44-3717.

DISCUSSION

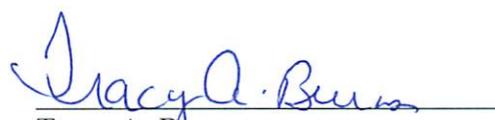
The Department provided sufficient evidence to show that Respondent received proper notice of these proceedings. The evidence shows that Respondent was convicted of two separate felonies involving the sexual assault of a minor child. Schlautman was not notified by the Respondent of the charges or subsequent convictions. The felony charges, subsequent convictions and failure to report the same indicate that Respondent is not trustworthy nor of good repute. Based upon the convictions, failure to notify and evidence presented at the hearing, revocation of Respondent's motor club representative registration is appropriate.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of law, it is recommended that Respondent's Nebraska Motor Club Representative registration 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 17th day of March, 2020.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


Tracy A. Burns
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 the State of Nebraska, Department of Insurance vs. Emmanuel Perez (NAIC Producer #18840994), Cause No. A-2204.

Dated this 17 day of March, 2020.

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 Nebraska Diagnostic & Evaluation Center, PO Box 22800, Lincoln, NE 68542-2800, via certified mail, return receipt requested and via regular U.S. mail on this 17th day of March, 2020.