

MAR 18 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.)	
)	CAUSE NO. A-2207
MICHAEL SAUNDERS,)	
(NAIC Producer #16129666),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on March 5, 2020, 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, Tracy Burns. Michael Saunders (“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 licensing insurance producers.

2. Respondent was a non-resident insurance producer whose producer license expired on February 28, 2018. Respondent’s registered business address with the Department is 5310 NW 33rd Ave., Ste. 108, Ft. Lauderdale, FL 33309-6319. Respondent’s registered resident address with the Department is 1541 SE 23rd Ave., Apt 2, Pompano Beach, FL 33062-7532. (Ex. 2, Attachment

3. On or about January 29, 2020, the Petition and Notice of Hearing was served upon Respondent by mailing the same to his registered business and home addresses, by certified mail return receipt requested, and via regular U.S. mail. (Ex. 1)

4. On or about February 10, 2020, the Petition and Notice of Hearing mailed to Respondent's resident address via certified mail was returned to the Department by the United States Postal Service ("USPS") as undeliverable. (Ex. 1, Attachment 1)

5. On or about February 11, 2020, the Petition and Notice of Hearing mailed to Respondent's business address via certified mail was returned to the Department by the USPS as undeliverable. (Ex. 1, Attachment 2)

6. On or about November 15, 2017, Respondent sold a limited benefit health policy to a Nebraska consumer. The consumer later filed a complaint with the Department's Consumer Affairs Division (CAD) (Ex. 3, Attachment 1)

7. On or about January 22, 2019, the Department mailed a written inquiry to Respondent seeking a response to the consumer complaint. The inquiry was mailed to Respondent's residence address via certified mail, return receipt requested. On or about January 29, 2019, the Department received a signed return receipt, confirming delivery. (Ex. 3, Attachment 4)

8. On or about February 22, 2019, Respondent provided a written response to the inquiry. (Ex. 3, Attachment 5)

9. On or about July 10, 2019, a follow up inquiry was mailed via certified mail to Respondent's residence address seeking additional information regarding the consumer complaint. (Ex. 3, Attachment 7)

10. On or about August 22, 2019, the domestic return receipt was returned to the Department by the USPS marked “Return to Sender. Unclaimed. Unable to Forward.” To date, the Department has not received a response to the follow up inquiry. (Ex 3, Attachment 8)

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. Pursuant to Neb. Rev. Stat. §44-4059(5), “the Director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing Act against any person who is under investigation for or charged with a violation of the act even if the person's license or registration has been surrendered or has lapsed by operation of law.”

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. §§ 44-1525(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.

6. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), and 44-1525(11), as a result of the conduct set forth in paragraphs 6 through 10 of the Findings of Fact.

DISCUSSION

The Department presented sufficient evidence to show adequate steps were taken to provide Respondent with proper notice of these proceedings. The uncontested evidence shows Respondent failed to respond to a Department follow up inquiry regarding a consumer complaint. Even though the Respondent is not currently licensed as a Nebraska insurance producer, The Department still maintains disciplinary jurisdiction over Respondent. The Department's important role of producer oversight and consumer protection is frustrated when insurance producers fail to respond to legitimate Department inquiries. Respondent's failure to respond is also strong evidence of dishonest or incompetent practices incompatible with an insurance producer

Based on the serious nature of the evidence presented, and considering the totality of the circumstances involved, the Hearing Officer recommends the sanction delineated below.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be required to pay a fine in the amount of five hundred dollars (\$500.00) within ninety (90) days of the issuance of this Order. As Respondent is not currently licensed as a Nebraska insurance producer, Respondent must pay said fine prior to any approval of an application for licensure that may be submitted by Respondent in the future. In addition, no application for licensure will be approved unless and until Respondent has responded to all outstanding Department inquiries. 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 13th day of March, 2020.

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. Michael Saunders (NAIC Producer #16129666), Cause No. A-2207.

Dated this 18 day of March, 2020.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Bruce R. Ramge
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 home addresses, 5310 NW 33rd Ave., Ste. 108, Ft. Lauderdale, FL 33309-6319, and 1541 SE 23rd Ave., Apt 2, Pompano Beach, FL 33062-7532, via certified mail, return receipt requested and via regular U.S. mail on this 18th day of March, 2020.

Molly Storie