

FEB 24 2022

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	CAUSE NO. A-2271
LANAE MATOUSEK,)	
(NAIC Producer #18104667),)	
)	
)	
RESPONDENT.)	

This matter came on for hearing on February 22, 2022, before Seth J. Felton, 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, Michael W. Anderson. LaNae Matousek ("Respondent") was present and appeared pro se. The proceedings were recorded by Shelly Storie, a licensed Notary Public. The Department and Respondent both presented evidence at the hearing and the matter was taken under advisement. The hearing officer now 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 registered mailing address with the Department is 304 North Smith Avenue, Elwood, Nebraska, 68937 (See Ex. 2, Attachment 1).

3. On or about June 11, 2021, the Department received a consumer complaint concerning Respondent, alleging that Respondent had forged the signature of a consumer, taken premium payment from said consumer, and not issued a policy for the consumer (See Ex. 1, Attachment 1).

4. On June 21, 2021, the Department received a response to the consumer complaint from Farm Bureau Financial Services ("Farm Bureau"). Respondent was contracted with Farm Bureau as an insurance producer beginning September 1, 2018. The statement from Farm Bureau indicated that Respondent's contract was terminated effective May 13, 2021, upon discovery of problems in her assigned book of business. (See Ex. 1, Attachment 2).

5. Department investigator Nate Dobler contacted Respondent for her response to the consumer complaint. Through her responses, Respondent admitted that she had forged consumer signatures for an estimated 20 consumers; that consumer Blake Adams' policy lapsed due to her failure to upload required documentation and that, after a period of time, Respondent paid \$2,000 from her own account to reinstate the policy without his knowledge; and, that she made payments in a similar manner for approximately 4 other consumers without their knowledge (See Ex. 1, Attachment 3).

6. On or about September 28, 2021, the Department served a copy of the Petition and Notice of Hearing on Respondent, and on or about October 19, 2021, the Department received the Domestic Return Receipt Cards showing that Respondent received and signed for delivery of the Petition and Notice of Hearing sent to Respondent's registered address. (See Ex. 3 and attachments thereto). Respondent also

received copies of the motions and orders granting continuances in the matter (See Ex. 3 and attachments thereto).

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), the Director may, in his discretion, suspend or revoke an insurance producer's license for any one or more of the following causes:... (b) violating any insurance law or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director;... (e) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;... (g) having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud; ... (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; ... (j) Forging another's name to an application for insurance or to any document related to an insurance transaction.

4. Pursuant to Neb. Rev. Stat. § 44-1524(1), it shall be an unfair trade practice in the business of insurance for any insurer "to commit any act or practice defined in section 44-1525 if the act or practice is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act."

5. Pursuant to Neb. Rev. Stat. § 44-1525(10), it shall be unfair trade practice in the business of insurance if any insurer engages in “making false or fraudulent statements or representations on or relative to an application for a policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual person”.

6. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), (e), (g), (h), and (j), 44-1524(1), and 44-1525(10) as a result of the conduct found in paragraphs 3 through 6 in the Findings of Fact and as evidenced by the exhibits received.

DISCUSSION

The uncontested evidence shows that Respondent admitted to conduct that creates serious concern about her fitness to remain licensed as an insurance producer. Respondent admits allowing consumer policies to lapse due to her failure to upload required documentation, and then papering over the failures by forging consumer signatures and paying reinstatement fees out of her own pocket. The evidence also shows that this was not an isolated incident; Respondent admits that she forged the wet signatures on EFT forms of approximately 20 consumers due to not having the time to obtain the signature in person. Respondent also admits that she made payment from her account without client knowledge in at least five cases “to try to ‘fix’ the situation.... because I knew that my mistakes were the reason the policies were behind in payments.” (Ex. 1, Attachment 3, Respondent's e-mail of August 5, 2021).

It appears that Respondent was taking some of these actions to “make things right,” and not to pocket consumer premiums without issuing policies. While the consumer complaint alleges that Respondent was deliberately taking premiums from consumers

without taking the steps necessary to ensure the purchased coverage was in force and effect (see Ex. 1, Attachment 1), Respondent denies this, and there is no additional evidence that Respondent was engaged in any kind of theft of premium payments. Respondent also offered several letters of reference attesting to her character and work ethic (see Ex. 4) as well as her testimony regarding the personal circumstances that caused her to fall behind in her work and led to her failure to submit the documentation needed to ensure policy issuance at the time of application.

However, these extenuating circumstances do not excuse the fact that consumers' policies were not issued at the time they applied for them, or lapsed due to non-payment as a result of Respondent's failure to timely upload documents or pay premiums entrusted to her by her clientele. While there is no evidence indicating whether consumers were harmed by these lapses (other than the allegations in the consumer complaint), the fact remains that, by Respondent's own admission, some of her clients went without insurance coverage for periods of time due to her lack of diligence, which could have resulted in serious and significantly negative financial consequences for her clients in the event of a loss. Respondent also admits that one of her solutions to these issues was committing multiple forgeries. The conduct to which Respondent admits evidences a lack of competence, as well as a lack of trustworthiness.


One of the primary purposes of regulating the insurance industry is protection of the consumer. Respondent's actions, no matter her intentions, endangered the well-being of multiple consumers, and violated numerous insurance laws as recited above. Revocation of Respondent's Nebraska resident insurance producer's license is the appropriate action in this case.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's resident 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 orders as may be necessary.

Dated this 24th day of February, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



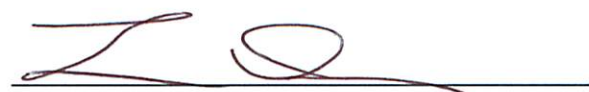
Seth J. Felton
Hearing Officer

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. LaNae Matousek (NAIC Producer #18104667), Cause No. A-2271.

Dated this 24th day of February, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Eric Dunning
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 address, 304 North Smith Avenue, Elwood, Nebraska, 68937, via certified mail, return receipt requested and via regular U.S. mail on this 24th day of February, 2022.

Sherry Stoni