

DEC 03 2021

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-2273
	)	
SHANE CHAFA,	)	
(NAIC Producer #19064093),	)	
	)	
RESPONDENT.	)	
	)	

This matter came on for hearing on December 1, 2021, before Thomas C. Green II, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance (“Department”) appeared through its counsel, Michael W. Anderson. Shane Chafa (“Respondent”) did not appear and was not represented by counsel. The proceedings were recorded by Patricia K. Hill, a licensed Notary Public. The Department offered Exhibits 1 through 3 at the hearing, which were received without objection. The Respondent did not offer any exhibits. After the conclusion of evidence, 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 and regulating insurance producers.
2. Respondent is a licensed non-resident insurance producer. Respondent’s registered mailing address with the Department is 9103 Lenham Drive, Johnston, IA 50131. (Ex. 2).

3. On or about September 29, 2021, a Petition and Notice of Hearing were sent to Respondent by mailing the same to his registered mailing address, by certified mail, return receipt requested, and via regular U.S. mail. (Ex. 3)

4. On or about October 7, 2021, the Domestic Return Receipt attached to the Petition and Notice of Hearing mailed to Respondent's registered address was returned to the Department by the United States Postal Service ("USPS") evidencing delivery. (Ex.3, Attachment 1)

5. On March 29, 2021, the Department received notice that the Respondent was terminated for cause from Aflac. In particular, Aflac's special investigations unit discovered that Respondent had submitted applications for insurance on individuals without obtaining the individuals' prior authorization and consent. When confronted with the allegations, Respondent admitted that "he had completed eleven applications on four employees without their knowledge and consent." (Ex. 1; Attachments 1 and 2)

6. When the Department asked the Respondent to respond to the allegations made by Aflac, the Respondent, via email, indicated that when he was unable to reach certain individuals about changing their coverage from an existing carrier to Aflac, he "flipped them" on the company's behalf anyway; no authorization or consent was obtained from the individuals prior to flipping them, nor did the individuals even have advanced knowledge of the Respondent's actions. (Ex 1, Attachment 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)(g), the director may suspend or revoke an insurance producer's license or may levy an administrative fine for having admitted or been found to have committed any insurance unfair trade practice, any unfair claims settlement practice, or fraud.

5. 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.

6. Pursuant to Neb. Rev. Stat. § 44-4059(1)(j), the director may suspend or revoke an insurance producer's license or may levy an administrative fine for forging another's name to an application for insurance or to any document related to an insurance transaction.

7. 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 § 44-1525 if the act or practice (1) is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act or (2) has been committed with such frequency as to indicate a general business practice to engage in that type of conduct.

8. Pursuant to Neb. Rev. Stat. § 44-1525(10) it shall be an unfair trade practice in the business of insurance for any insurer to engage 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.”

9. Respondent violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-4059(1)(j), 44-1524(1) and 44-1525(10) as a result of the conduct set forth in paragraphs 5 through 6 of the Findings of Fact.

### DISCUSSION

The uncontested evidence shows that Respondent submitted multiple applications for insurance in which the purported insureds failed to give authorization and consent. In fact, not only was there a lack of authorization and consent, but the purported insureds were not even contacted and did not even know about the applications prior to submission. When questioned about the allegations made by the insurer, Respondent admitted to carrying out the improper actions simply because he was unable to reach the purported insureds. Respondent’s rationale is not acceptable, and his actions are entirely improper. Respondent’s actions were committed deliberately, flagrantly and in conscious disregard of Nebraska law. Respondent’s actions demonstrate a high level of dishonest and untrustworthy conduct incompatible with the high ethical and moral standards required of an insurance producer.

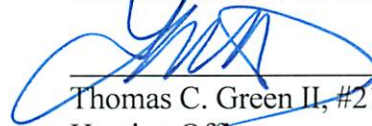
Based on the serious nature of the evidence presented, revocation of Respondent’s non-resident insurance producer license is appropriate in this case.

RECOMMENDED ORDER

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

Dated this 3rd day of December, 2021.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



Thomas C. Green II, #21001  
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. Shane Chafa (NAIC Producer #19064093), Cause No. A-2273.

Dated this 3<sup>rd</sup> day of December, 2021.

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 were provided to the Respondent at the Respondent's registered mailing address, 9103 Lenham Drive, Johnston, IA 50131, via regular U.S. mail on this 3<sup>rd</sup> day of December, 2021.

Shelly Storie