

MAR 24 2022

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	FINDINGS OF FACT, CONCLUSIONS
DEPARTMENT OF INSURANCE,)	OF LAW, RECOMMENDED ORDER AND
)	ORDER
PETITIONER,)	
)	CAUSE NO. A-2290
VS.)	
)	
MIMI KIIR,)	
(NAIC Producer #20056871))	
)	
)	
RESPONDENT.)	

This matter came on for hearing on March 22, 2022, before Michael W. Anderson, 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, Seth J. Felton. Mimi Kiir ("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 currently holds a resident insurance producer's license in the State of Nebraska. Respondent's registered address with the Department is 3874 North 65th Avenue, Omaha, Nebraska, 68104. (See Ex. 1, Attachment 1).
3. On or about September 7, 2021, Respondent submitted an application for an insurance producer license through the National Insurance Producer Registry (NIPR) for credit and surety lines of authority. On or about September 7, 2021, Respondent was granted a resident Nebraska insurance producer license effective as of that same date.

4. The NIPR application form includes the question "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor? You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license." Respondent answered the question "No." (See Ex. 1, Attachment 2)

5. On or about December 3, 2021, personnel with Petitioner's licensing division conducted a criminal background search on Respondent. (See Ex. 1, Attachment 3) The search revealed the following:

- a. that Respondent has been convicted of resisting arrest, a misdemeanor, in Case No. CR 19-23656, in the County Court for Douglas County, Nebraska;
- b. that Respondent has been charged in Case No. CR 21-3991, in the County Court for Douglas County, Nebraska, with six counts of caretaker neglect of a minor under Omaha Municipal Code § 20-97, all misdemeanors.
- c. that Respondent has been charged in Case No. CR 21-4032, in the County Court for Douglas County, Nebraska, with one count of caretaker neglect of a minor under Omaha Municipal Code § 20-97 and failure to appear, both misdemeanors and
- d. that Respondent has been charged in Case No. CR 20-3217, in the County Court for Sarpy County, Nebraska, with one count of 2nd degree criminal trespass and one count of obstruction of a peace officer, both misdemeanors.

6. On December 3, 2021, Kevin Schlautman, Licensing Administrator employed by Petitioner, e-mailed Respondent at the e-mail address registered with Petitioner requesting that Respondent upload documentation regarding the misdemeanor charges and conviction Respondent failed to disclose, and also requested an explanation as to why Respondent did not disclose the charges and convictions. (See Ex. 1, Attachment 4) Respondent did not reply to this e-mail.

7. On January 10, 2022, Kevin Schlautman, Licensing Administrator employed by Petitioner, sent a letter to Respondent via certified mail, return receipt requested, again asking Respondent to produce records regarding the above-referenced misdemeanor conviction and charges and to provide a written explanation why Respondent failed to disclose the conviction and charges. The letter included a warning that failure to respond to Petitioner's inquiry within fifteen days may be considered a violation of the Nebraska Unfair Insurance Trade Practices Act. (See Ex. 1, Attachment 5)

8. Mr. Schlautman's affidavit also states that the Respondent has not responded to the letter requesting information. (See Ex. 1)

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. § 44-4908(1), the Director may levy an administrative fine against an insurance producer's license if it is found that the producer has violated any insurance law.

4. Respondent violated Neb. Rev. Stat. § 44-4059(1)(a) as a result of the conduct found in paragraphs 3-5 in the Findings of Fact and as evidenced by the relevant exhibits received.

5. Petitioner's Office alleges that Respondent violated Neb. Rev. Stat. § 44-4059(1)(g), as a result of the conduct found in paragraphs 6-8 in the Findings of Fact and as evidenced by the relevant exhibits received, however, Petitioner has not sufficiently shown that Respondent received notice of the January 10, 2022 request for information from Mr. Schlautman.

DISCUSSION

At the hearing, the Department presented sufficient evidence of proper service of notice of these proceedings upon Respondent. The Department served Respondent via certified mail, return receipt requested and regular U.S. mail to the Respondent's registered address. The Department also provided a Domestic Return Receipt for the notice filings, which confirm delivery to the Respondent and bear the Respondent's name as the individual who received the certified mailing. Based upon the evidence of record, the Department's service of the petition and notice of hearing upon Respondent at its mailing address was sufficient and jurisdiction over the actions of the Respondent in this matter has been established.

The uncontested evidence shows that Respondent failed to include several misdemeanor convictions during the application process, and that these misdemeanors were required to have been disclosed during said process.

These actions constitute a violation of Neb. Rev. Stat. § 44-4059(1)(a).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent be assessed an administrative penalty of \$1,000, and that such penalty shall be paid by the Respondent within 60 days of the adoption of this order. Should Respondent fail to pay the administrative penalty, Respondent's insurance producer's license shall be suspended until such a time as the penalty is paid. 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 March, 2022.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Michael W. Anderson
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. Mimi Kiir (NAIC Producer #20056871), Cause No. A-2290.

Dated this 24th day of March, 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, 3874 North 65th Avenue, Omaha, Nebraska 68104, via certified mail, return receipt requested and via regular U.S. mail on this 24th day of March, 2022.


Shelly Storie