

MAY 23 2003

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	CAUSE NO.: A-1494
DEPARTMENT OF INSURANCE,	)	
	)	FINDINGS OF FACT,
PETITIONER,	)	CONCLUSIONS OF LAW,
	)	RECOMMENDED ORDER AND
vs.	)	ORDER
	)	
KIRT ELLIOTT,	)	
	)	
RESPONDENT.	)	

This matter came on for hearing on the 7th day of May, 2003, before Christine M. Neighbors, 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, Martin Swanson. Kirt Elliott, ("Respondent"), was not present and was not represented by an attorney. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent was a resident licensed insurance producer at all times material hereto, whose registered address with the Department is 501 South 38<sup>th</sup> Street, Omaha, Nebraska 68103-0721. (Exhibits 1, 4-6).
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers and brokers.
3. The Petition and Notice of Hearing were filed on or about April 3, 2003, and were served upon the Respondent by mailing the same to his address of record by

certified mail, return receipt requested. On or about April 28, 2003, the certified letter was returned to the Department as "unclaimed." Prior to receiving the "unclaimed" letter, the Department re-served Respondent on April 24, 2003. Respondent received the Petition and Notice of Hearing on or about April 26, 2003 as evidenced by the return receipt card attached to Exhibit 2, which was received by the Department on April 28, 2003.

4. On or about August 29, 2001, the Department received a check in the amount of \$45.00 to pay for the license renewal and continuing education fee for Respondent. The check did not clear the bank and was returned to the Department as unpaid due to the illegibility of the routing number on the check. Respondent was sent an invoice on or about September 10, 2001 informing him of the unpaid check and instructing Respondent to remit \$60.00 to the Department to cover the \$45.00 for license renewal and a \$15.00 administrative fee for the returned check. In October 2001, the Department again contacted Respondent in an attempt to obtain payment.

5. To date of hearing, Respondent has not responded to the Department nor has he provided payment of his licensing renewal fees.

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over licensing of Respondent to sell insurance 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. Respondent violated *Neb. Rev. Stat.* §44-4059(1)(b), (g), and (h) due to his failure to pay the licensing renewal fees required pursuant to *Neb. Rev. Stat.* §44-4064

and due to his failure to respond to the Department's requests for payment as required pursuant to *Neb. Rev. Stat.* §44-1525(11).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent's insurance producer license be suspended until Respondent pays the required licensing renewal fees and complies with the Order issued in Cause No.: A-1496.

Dated this 22nd day of May, 2003.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE


  
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 the Department in the matter of the State of Nebraska Department of Insurance v. Kirt Elliott, Cause No.: A-1494.

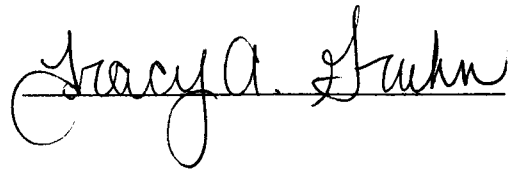
Dated this 23rd day of May, 2003.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
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 Respondent by mailing a copy to Respondent at 501 South 38<sup>th</sup> Street, Omaha, NE 68103-0721 on this 23<sup>rd</sup> day of May, 2003, by certified mail, return receipt requested.

A handwritten signature in cursive script, reading "Tracy A. Fuhn", is written over a horizontal line.