NEBRASKA DEPARTMENT
OF INSURANCE

SEP 25 2001

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA DEPARTMENT OF INSURANCE	)	CONSENT ORDER
PETITIONER,	)	
VS.	)	
MICHAEL TVRDY	)	CAUSE NO. A-1438
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine Neighbors, and Michael Tvrdy, ("hereinafter referred to as Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001, et seq.

2. Respondent is licensed as a resident insurance agent under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a Petition and Notice of Hearing styled State of Nebraska Department of Insurance vs. Michael Tvrdy, on August 17, 2001. A copy of such Petition and Notice of Hearing was served upon the Respondent by certified mail at the address of 723 W. Jennifer Street, Lincoln, NE.

2. Respondent's registered address currently on file with the Department is 2076 County Rd #B, Ceresco, NE 68017.

3. The Petition alleges Respondent violated Neb. Rev. Stat. §44-4028 (17) as follows:

a. On or about April 13, 2001, Robin Szwanek, an Insurance Investigator of the Consumer Affairs Division, sent Respondent a certified request to Respondent's registered residential address that he provide the Nebraska Department of Insurance with an explanation regarding a complaint that had been filed against him with the Department;

b. Respondent did not receive the correspondence of the Insurance Investigator as evidenced by the return of the aforementioned envelope marked "Not Deliverable as Addressed – Unable to Forward" on or about April 18, 2001;

c. On or about July 11, 2001, Robin Szwanek, an Insurance Investigator of the Consumer Affairs Division, sent Respondent a certified request to Respondent's registered residential address that he provide the Nebraska Department of Insurance with an explanation regarding a complaint that had been filed against him with the Department;

d. Respondent did not receive the correspondence of the Insurance Investigator as evidenced by the return of the aforementioned envelope marked "Not Deliverable as Addressed – Unable to Forward" on or about July 16, 2001.

4. The Petition alleges Respondent violated Neb. Rev. Stat. §44-4015 (3) which states in pertinent part, "[e]very person licensed under the Insurance Producers Licensing Act shall notify the Department within thirty days of any change in such person's residential or business address" as follows:

a. All correspondence sent to Respondent's residential address was returned to Petitioner labeled as not deliverable; and

b. Respondent failed to notify the Department within thirty days of the change of his residential or business addresses.

5. Respondent was informed of his right to a public hearing. Respondent waives that right and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

6. Respondent neither admits nor denies the allegations contained in the Petition and restated in Paragraphs 3 and 4 above.

CONCLUSIONS OF LAW

Respondent's conduct as alleged above in Paragraphs 3 and 4 constitutes a violation of Neb.Rev.Stat. §44-4028 (17) and §44-4015 (3). After receiving the Petition and Notice of Hearing, Respondent filed a change of address form with the Licensing Division and provided a response to the two consumer complaint files.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Michael Tvrdy, that Respondent agrees to pay an administrative fine of $500.00. It is further ordered that if full payment of the administrative fine is not received on or before 30 days from the date the Director of Insurance signs this Consent Order, grounds shall exist for a hearing to be called wherein Respondent shall show cause why his Nebraska insurance agent's license should not be revoked. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party executed this document by subscribing his or her signature below.

Christine Meighbors

Attorney for Nebraska
Department of Insurance
941 "O" Street, Suite 400
Lincoln, NE 68508
(402) 471-2201

9/24/01
Date

Michael H. Tvrdy
Respondent

9/24/01
Date

State of Nebraska)
) ss.
County of Lancaster)

On this 24th day of September, 2001, Michael Tvrdy personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

Connie Jean Hulinsky
GENERAL NOTARIAL
SEAL
STATE OF NEBRASKA
Commission Expires
April 16, 2002

Connie Jean Hulinsky
Notary Public

CERTIFICATION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Michael Tvrdy, Cause No. A-1438.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

L. Tim Wagner

L. TIM WAGNER
Director of Insurance

9/25/01
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at Respondent's registered address of 723 W. Jennifer Street, Lincoln, NE 68521 by certified mail, return receipt requested on this 25th day of September, 2001.

Stacy M. Burfeindt