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NEBRASKA DEPARTMENT
OF INSURANCE

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA DEPARTMENT OF INSURANCE,	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDED ORDER AND ORDER
PETITIONER,	)	
vs.	)	
JEFFREY D. ETTER,	)	CAUSE NO. A-1662
RESPONDENT.	)	

This matter came on for hearing on the 11th day of May, 2006, before Janette Adair, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Department of Insurance ("Department") was represented by its attorney, Christine M. Neighbors. Jeffrey D. Etter ("Respondent") was present and was not represented by counsel. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. The Department and the Respondent presented evidence at the hearing and the matter was taken under advisement. The hearing officer hereby 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 whose registered address with the Department is 13362 Shirley Street, Omaha, NE 68144.

3. On or about April 17, 2006, the Petition and Notice of Hearing were served upon Respondent by mailing the same to him at 13362 Shirley Street, Omaha, NE 68144. On or about April 21, 2006, Department received a certified mail return receipt card signed by Respondent evidencing receipt of the Petition and Notice of Hearing. (Ex. 1)

4. On or about May 3, 2006, Respondent submitted a written request to appear via telephone at the hearing scheduled for May 5, 2006. Department made no objection to this request.

5. On or about May 3, 2006, an Order was entered granting Respondent's request to appear via telephone at the May 5, 2006 hearing.

6. On or about May 5, 2006, Respondent and Department jointly requested that hearing be continued to May 11, 2006 in order to allow Respondent to appear in person.

7. On or about May 5, 2006, an Order was entered granting a continuance to May 11, 2006.

8. By affidavit, Janet Roberts ("Roberts"), Staff Assistant of the Licensing Division of Department, testified as follows: On or about March 29, 2002, Respondent applied for a non-resident producer license. On or about February 3, 2005, Respondent applied to have his non-resident license changed to a resident license. On this application, in response to a question asking whether an applicant holds or has ever held an insurance license in another state in the U.S. or the provinces of Canada, Respondent answered "NO." Attached to this application was a letter of clearance from the State of Iowa, dated January 26, 2005, indicating that Respondent held an Iowa resident license that was cancelled on January 26, 2005. On or about the beginning of September 2005, Department received

notice from the Iowa Department of Insurance that an administrative action had been taken against Respondent's license. (Ex 2)

9. Cindy Williamson ("Williamson"), Complaint Investigator for the Consumer Affairs Division of the Department, testified that she was assigned to investigate the Respondent's failure to report the Iowa administrative action. Williamson contacted the State of Iowa Department of Insurance and discovered that an Order was entered revoking Respondent's Iowa license, Respondent did not appeal the Order, and the Order became final thirty days after it was entered. (Ex 4) Williamson testified that Respondent did not report the Iowa administrative action to the Department within thirty days as required by Nebraska statute.

10. On August 19, 2005, Administrative Law Judge Martin H. Francis issued an Order revoking Respondent's Iowa insurance agent license, assessing a civil penalty in the amount of $500 and a portion of the costs in the amount of $200, prohibiting Respondent from applying again to be licensed for a period of six months following the issuance of the Order, and requiring a plan of supervision if Respondent is again licensed in the State of Iowa. (Ex 3)

11. The Order issued by Judge Francis is styled In the Matter of Jeffrey D. Etter and Peter E. Miover. As such, references to "Respondents" in the Order refer to both the Respondent in this matter, Jeffrey D. Etter, and Peter E. Moiver. (Ex 3)

12. Judge Francis concluded that Respondents forged signatures of a number of their clients on a number of insurance applications and a number of documents related to insurance transactions and that these acts come under the terms of Iowa Code section 522B.11(1)(j). (Ex 3)

13. Judge Francis concluded that Respondents effectively provided untrue information in a license application and attempted to gain a license through fraud under the terms of Iowa Code section 522B.11(1)(a) and 522B.11(1)(c). (Ex 3)

14. Judge Francis concluded that it would be in the public interest to revoke the Respondent's insurance agent license. (Ex 3)

15. The Order entered in the Iowa administrative action became final thirty days after the date of issuance.

16. Respondent testified that he marked the "NO" box on the Nebraska application in response to the question asking whether an applicant holds or has ever held an insurance license in another state in the U.S. or the provinces of Canada by mistake.

17. Respondent testified that he did not notify the Department regarding the Iowa administrative action.

18. Respondent testified that he did not appeal the Order entered in the Iowa administrative action.

19. Respondent testified that on approximately January 23, 2005, he met with officials of Ameritas and was advised that he was not to solicit any more business on the company's behalf.

20. On January 26, 2005, Respondent cancelled his Iowa insurance agent license and obtained a Letter of Clearance from the State of Iowa indicating that his Iowa insurance agent license was "in good standing." (Ex 2)

21. Respondent testified that on January 28 or 29, 2005, he received a letter from Ameritas terminating his appointment with the company.

22. On February 3, 2005, Respondent applied for a Nebraska resident insurance producer license attaching the Letter of Clearance from the State of Iowa. (Ex 2)

23. Respondent testified that he did not disclose the outstanding issues with Ameritas to the Iowa Department of Insurance when canceling his Iowa insurance agent license and obtaining the Letter of Clearance.

24. Respondent testified that he did not disclose the outstanding issues with Ameritas to the Department when applying for a Nebraska resident insurance producer license.

25. Respondent testified that he was recently terminated by AFLAC for cause. The basis for this termination was that Respondent owed AFLAC $14,000. Respondent testified that he has paid the money to the company.

26. Respondent testified that he is probably getting out of the insurance business and has no objection to the revocation of his Nebraska insurance producer license.

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of insurance producers 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 Applicant.

3. Pursuant to Neb. Rev. Stat. § 44-4059(1), the Director may suspend, or revoke an insurance producer's license, or levy an administrative fine for any one or more of the following causes: (a) providing incorrect, misleading, incomplete, or materially untrue information in the license application, (b) violating any insurance law or violating any rule, regulation, subpoena, or order of the Director of another state's insurance commissioner or

director, (c) obtaining or attempting to obtain a license through misrepresentation 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, or (i) having an insurance producer license, or its equivalent, denied, suspended, placed on probation, or revoked in Nebraska or in any other state.

4. Respondent violated insurance laws of the State of Iowa.

5. Respondent violated Neb. Rev. Stat. § 44-4065(1) by failing to report the administrative action taken against Respondent in Iowa to the Department within thirty days of the final disposition of the matter.

6. Respondent provided misleading information in the February 3, 2005 license application submitted to Department by attaching a letter of clearance obtained from the State of Iowa on January 26, 2005, but failing to disclose the termination for cause by Ameritas.

7. Respondent used fraudulent, or dishonest practices in forging signatures of clients on insurance applications and a number of documents related to insurance transactions in the State of Iowa.

8. Respondent demonstrated incompetence or untrustworthiness in the conduct of business in the State of Iowa by forging signatures of clients on insurance applications and a number of documents related to insurance transactions in the State of Iowa.

9. Respondent's Iowa insurance agent license has been revoked.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended to the Director of Insurance that the Respondent's insurance producers license be revoked

immediately upon the Director of Insurance or his designee signing the certificate adopting this Order.

Dated this 17th day of May, 2006.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Janette L. Adair
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 State of Nebraska Department of Insurance v. Jeffrey D. Etter, Cause No. A-1662.

Dated this 18th day of May, 2006.

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 the Applicant by mailing a copy to Jeffrey D. Etter, 13362 Shirley Street, Omaha, NE 68144, by certified mail, return receipt requested, on this 22nd day of May, 2006.