

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA)	BEFORE THE
COUNTY OF WAKE)	COMMISSIONER OF INSURANCE
)	
)	
IN THE MATTER OF:)	ORDER AND
)	FINAL AGENCY DECISION
THE LICENSURE OF)	
JAMES ADGER)	Docket Number: 2003
NPN #0000082128)	
)	
Respondent.)	
)	

This matter was heard on Tuesday, October 1, 2020, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to North Carolina General Statutes §§ 58-2-70, 58-2-162, 58-2-185, 58-33-30, 58-33-46, 150B-38, 150B-40 and 11 N.C.A.C. 1.0401 *et seq.* and other applicable statutes and regulations. Petitioner, the North Carolina Department of Insurance [“the Department”], was represented by Assistant Attorney General Anne Goco Kirby. Respondent James Adger (hereinafter, “Respondent”) did not appear. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Anne Goco Kirby represented the North Carolina Department of Insurance, Agent Services Division (hereinafter “Petitioner” or “ASD”).

Sherri Bumgarner, Investigator for the Department’s Agent Services Division, appeared and testified for the Department.

Based on the allegations set forth in the Notice of Hearing, the attached Petition and Affidavit of Service in this matter, the testimony of Sherri Bumgarner, and the documentary exhibits presented at the hearing, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. N.C. Gen. Stat. § 58-2-69(b) requires, in pertinent part, that all licensees inform the Commissioner of the applicant’s residential address and e-mail address and to give written notification to the Commissioner of any change of the licensee’s residential or e-mail address within 10 business days after the licensee moves into the licensee’s new residence or obtains a different e-mail address.

2. N.C. Gen. Stat. § 58-2-69(d) provides that “[n]otwithstanding any other provision of law, whenever the commissioner is authorized or required to give any notice under this Chapter to a licensee, the notice may be given personally or by sending the notice by first-class mail to the licensee at the address that the licensee has provided to the Commissioner under subsection (b) of this subsection.”

3. The Notice of Administrative Hearing and attached Exhibit A (Petition for Administrative Hearing) was properly served on Petitioner by mailing it by first class mail to the Respondent at the residential address of record which Respondent has had on file pursuant to N.C. Gen. Stat. § 58-2-69(d) and by mailing it by first class and certified mail to an alternative address for Respondent.

4. Respondent is a resident of the State of Florida.

5. The Department has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. Respondent holds Non-Resident Life, Accident & Health or Sickness, and Medicare Supplement Long-Term Care Licenses. Respondent’s National Producer License Number (NPN) is 0000082128.

6. On November 22, 2019, the Indiana Department of Insurance entered a Preliminary Administrative Order and Notice of License Denial which denied Respondent’s August 14, 2019 application to reinstate his nonresident license pursuant to Indiana Code § 27-1-15.6-12(b)(1) for failing to disclose eight (8) administrative actions in his application for licensure, pursuant to Indiana Code § 27-1-15.6-12(b)(9) for having had a license revoked or denied in several states, and pursuant to Indiana Codes §§ 27-1-15.6-12(b)(2)(A) and 27-1-15.6-17(a) for failing to timely disclose six (6) administrative actions while previously holding Indiana nonresident licensure.

7. On December 20, 2019, the Louisiana Department of Insurance issued a Notice of Revocation Order which revoked Respondent’s license effective 30 days from issuance of the Notice for failing to report the insurance producer license application denial by the State of Indiana within thirty (30) days, the failure to submit the required documentation, and the failure to disclose the license application denials of Colorado and Wisconsin on his Louisiana producer application in violation of La. R.S. 22:1554(a) and La. R. S. 22:1563(A).

8. N.C. Gen. Stat. § 58-33-32(k) provides that “A producer shall report to the Commissioner any administrative action taken against the producer in another state . . . within 30 days after the final disposition of the matter This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action.”

9. Respondent failed to notify the Commissioner of the administrative actions taken by Indiana and Louisiana within thirty (30) days of final disposition of each State's action, as required by N.C. Gen. Stat. § 58-33-32(k).

10. By e-mail to Respondent dated February 17, 2020, Sherri Bumgarner, an Investigator with the Agent Services Division of the North Carolina Department of Insurance ["the Department"], informed Respondent that the Department had received information about the Indiana and Louisiana actions and requested that Respondent provide copies of the Indiana and Louisiana actions along with a written response and any documentation regarding these matters within 10 days of receipt of the e-mail.

11. Respondent did not provide any response to the Department's February 17, 2020 e-mail. By e-mail dated March 2, 2020, Ms. Bumgarner reiterated the Department's prior February 17, 2020 request. By e-mail dated March 3, 2020, Respondent acknowledged receipt of the Department's request and stated that he was in the process of sending the Department the documents.

12. The Department scheduled an informal conference with the Respondent for May 5, 2020 in order to discuss his violations of N.C. Gen. Stat. § 58-33-32(k). The Department notified Respondent of the informal conference by e-mail on March 26, 2020. Respondent did not answer the Department's telephone call to him on the date and time of the conference. Thus, the Department rescheduled the informal conference for June 4, 2020 and notified Respondent of that informal conference by e-mail to Respondent on May 5, 2020. Respondent again failed to answer the Department's telephone call made to him on the date and time of the scheduled conference.

13. Petitioner requested that Respondent's license be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2).

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. The Notice of Administrative Hearing was properly served on Respondent.

3. Respondent's failure to report the administrative actions against his insurance license in Indiana and Louisiana within thirty (30) days of the effective

date of each of those actions is a violation of N.C.G.S. § 58-33-32(k).

4. N.C.G.S. § 58-33-46(a)(2) allows the Commissioner to suspend, revoke, or refuse to renew any license issued under this Article for violating any insurance law of this or any other State. Respondent's licenses are subject to suspension or revocation under N.C.G.S. § 58-33-46(a)(2) for failing to report the Indiana and Louisiana administrative actions to the Department in violation of N.C.G.S. § 58-33-32(k).

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that Respondent's licenses issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

This the 16th day of October, 2020.



A. John Hoomani
Hearing Officer
N.C. Department of Insurance

APPEAL RIGHTS

This is a Final Agency Decision issued under the authority of N.C. Gen. Stat. § 150B, Article 3A.

Under the provisions of N.C. Gen. Stat. § 150B-45, any party wishing to appeal a final decision of the North Carolina Department of Insurance must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. The appealing party must file the petition within 30 days after being served with a written copy of the Order and Final Agency Decision. In conformity with 11. NCAC 01.0413 and N.C. Gen. Stat. § 1 A-1, Rule 5, this Order and Final Agency Decision was served on the parties on the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Order and Final Agency Decision. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. The mailing address to be used for service on the Department of Insurance is: A. John Hoomani, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; via first class U.S. mail to the licensee, at the addresses provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier to Attorney for Petitioner, addressed as follows:

James Adger
5806 Lady Bug Court
Tampa, FL 33625
(Respondent)

Certified Mail Tracking #: 70200640000031853373

James Adger
13138 Carrollwood Creek Drive
Tampa, FL 33624
(Respondent)

Certified Mail Tracking #: 70200640000031853380

Anne Goco Kirby
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 19th day of October, 2020.



Mary Faulkner
Paralegal
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201