

**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
MICHAEL BORCHERS
NPN # 8776057**

**ORDER AND
FINAL AGENCY DECISION
Docket Number: D-1874**

This matter was heard on Wednesday, December 20, 2017 by the undersigned Hearing Officer, as designated by the Commissioner of Insurance, pursuant to North Carolina General Statutes §§ 58-2-50, 58-2-55, 58-2-70, 58-33-30, 58-33-31, 58-33-46, 150B-38, 150B-39, 150B-40 and 11 NCAC 1.0401 et seq. and other applicable statutes and regulations. The administrative hearing was held in Room 131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca E. Lem represented the North Carolina Department of Insurance (hereinafter, "Department"), Agent Services Division (hereinafter "Agent Services" or "ASD"). Michael Borchers (hereinafter, "Respondent") did not appear.

Agent Services was provided the opportunity to put on evidence and introduce exhibits into the record. Ms. Megan Daniels, Senior Complaint Analyst, testified for Agent Services. Petitioner's Exhibits 1 through 11 were admitted into evidence. The evidence provided substantiated the allegations set forth in the Notice of Hearing. It should also be noted that pursuant to 11 N.C.A.C. 1.0423(a), as a sanction for Respondent's failure to appear, the Hearing Officer may find that the allegations set out in the Notice of Hearing can be taken as true.

Based upon careful consideration of the sworn testimony of the witness presented at the hearing and the entire record in this proceeding, the Undersigned makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. §58-2-69(d).
2. The General Assembly of North Carolina has delegated to the Commissioner of Insurance and the Department the authority and responsibility for the enforcement of Chapter 58 of the North Carolina General Statutes, including regulating and licensing insurance agents under Article 33 of that Chapter.

3. Respondent is a resident of Florida, and holds a non-resident producer license issued by the Department with lines of authority in the areas of Life (issued March 11, 2010) and Accident & Health or Sickness (issued February 28, 2008), and his National Producer Number is 8776057.
4. Testimony presented during the hearing shows that Megan Daniels, Senior Complaint Analyst, has been involved with matters regarding the Respondent in the course of her job duties, which include dealing with matters relating to the licensure of insurance agents. Ms. Daniels became involved in matters with the Respondent when Agent Services received a "PIC Alert" that Respondent had administrative actions in several states that Respondent had not reported within thirty (30) days as required by N.C.G.S. § 58-33-32(k). Documentary evidence admitted at the hearing and testimony shows that Ms. Daniels, on behalf of Agent Services, attempted to contact the Respondent on several occasions between May 19, 2017 and July 31, 2017, by letter, email and telephone. Ms. Daniels was also in attendance at the informal conference scheduled for July 31, 2017 in which the Respondent failed to participate. Ms. Daniels testified that on no occasion did the Respondent respond to any of her attempts to contact him, and that it appears that he never updated his two email addresses of record with the Department as emails to these addresses were returned as undeliverable in violation of N.C.G.S. § 58-2-69(b). Ms. Daniels testified that phone calls to Respondent's phone number of record went to a voicemail for a moving service. Ms. Daniels testified that letters sent by U.S. Postal Service to Respondent's addresses of record were not returned to her.
5. Documentary evidence admitted at the hearing and testimony shows that on or about April 29, 2016 the Respondent received a regulatory action from the Indiana department of insurance whereby his license was suspended for failure to provide a list of appointments. Respondent did not timely report this administrative action to the Department pursuant to N.C.G.S. § 58-33-32(k). As of the date of this hearing, the Respondent has never reported this administrative action to the Department.
6. Documentary evidence admitted at the hearing and testimony shows that on or about December 28, 2016 the Respondent received a regulatory action from the Georgia department of insurance whereby his license was suspended for failure to produce requested records. Respondent did not timely report this administrative action to the Department pursuant to N.C.G.S. § 58-33-32(k). As of the date of this hearing, the Respondent has never reported this administrative action to the Department.
7. Documentary evidence admitted at the hearing and testimony shows that on or about April 20, 2017 the Respondent received a regulatory action from the South Dakota department of insurance whereby his license was revoked for violation of the insurance laws of other jurisdictions, failure to report administrative actions, failure to inform the South Dakota department of a change of mailing address, and failure to respond to the South Dakota department's inquiries. Respondent did not timely report this administrative action to the Department pursuant to N.C.G.S. § 58-33-32(k). As of the date of this hearing, the Respondent has never reported this administrative action to the Department.

8. Documentary evidence admitted at the hearing and testimony shows that the Department requested on two occasions by letter that the Respondent respond within ten (10) business days to its request for information pursuant to N.C.G.S. § 58-2-195 in regards to the aforementioned administrative actions in South Dakota, Georgia, and Indiana. Documentary evidence admitted at the hearing and testimony shows that the Respondent never responded to either of the Department's requests.


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 N. C. Gen. Stat. §§ 58-2-55, 58-33-46, 150B-38 and 150-40, as well as 11 N.C.A.C. 10401 et seq. and other applicable statutes and regulations.
2. Respondent was properly served with the Notice of Administrative Hearing.
3. Respondent's failure to report the administrative actions in South Dakota, Georgia, and Indiana within thirty (30) days are violations of N.C.G.S. § 58-33-32(k), and hence are violations of the insurance laws for which his license may be revoked pursuant to N.C.G.S. § 58-33-46(a)(2).
4. Respondent's failure to respond on two occasions to the Department's written requests for information are violations of N.C.G.S. § 58-2-195, and hence are violations of the insurance laws for which his license may be revoked pursuant to N.C.G.S. § 58-33-46(a)(2).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED that the non-resident producer license of Respondent Michael Borchers is hereby REVOKED.

This 3rd day of January, 2018.


Meghan Cook, Hearing Officer
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, North Carolina 27699-1201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER** 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, addressed as follows:

Michael M. Borchers
6413 NW 20th Street
Margate, FL 33063-2316

Certified Mail Tracking Number: 7004-2510-0005-8577-8142

Michael M. Borchers
6600 NW 16th Street, Suite 1
Plantation, FL 33313-4554

Certified Mail Tracking Number: 7004-2510-0005-8577-8173

Rebecca E. Lem
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
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(Attorney for Petitioner)

This the 3rd day of January, 2018.


Tricia Ford
Paralegal Administrator
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201