

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

STATE OF NORTH CAROLINA

**BEFORE THE COMMISSIONER
OF INSURANCE**

COUNTY OF WAKE

**IN THE MATTER OF
THE LICENSURE OF
DONALD W. BUCKNER**

**ORDER and FINAL
AGENCY DECISION**

Docket Number: 1109

This matter was heard on March 19, 2003 at 10:00 a.m., by the undersigned hearing officer, as designated by the Commissioner of Insurance. The administrative hearing was held in Room #3099 of the Dobbs Building, located at 430 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General LaShawn L. Strange represented the Department of Insurance Agent Services Division, hereinafter "Agent Services." Edmond Caldwell, Jr. and Colleen Kochanek represented the applicant for licensure, Donald Buckner, hereinafter "Buckner." After careful review of the matter, the hearing officer makes the following:

Findings of Fact

1. A Notice of Administrative Hearing was mailed to Buckner on February 24, 2003. Buckner stipulated at the hearing that notice was properly and timely served.
2. On September 18, 2002, Buckner applied for a North Carolina nonresident Property/Liability license.
3. On his application for licensure, Buckner answered "yes" to a screening question regarding involvement in an administrative proceeding concerning any occupational or professional license.
4. Buckner previously held a North Carolina nonresident Property/Liability license issued by Agent Services from January 31, 1992 to August 20, 2002.
5. On August 20, 2002, Buckner signed a statement admitting to participating in a scheme with an adjuster to file fraudulent crop/hail claims and surrendered his license to Agent Services. The signed statement reads "I, Donald W. Buckner, admitted to participating in a scheme along with Charles Harris, adjuster, to file fraudulent crop/hail claims in 2001." The statement also provides that Buckner entered into this scheme with the intention of receiving a portion of the proceeds from these fraudulent claims.

6. On October 16, 2002, Agent Services sent correspondence to Buckner informing him that his license application was denied.
7. At the hearing, Buckner testified that he was involved in a scheme to file fraudulent crop/hail claims.
8. On April 2, 2003, the hearing officer made a finding that on August 20, 2002, the license surrendered by Buckner was not voluntary. Additionally, counsel was informed that the matter was mispostured as a license denial hearing and it should have been heard as a license suspension hearing.
9. In a letter dated April 11, 2003, Buckner, through counsel Eddie Caldwell, informed the court and opposing counsel that he waived the procedural defect and requested the hearing officer render a decision on the merits.
10. As such, the hearing officer has decided the merits of the case as they relate to whether the facts support grounds for license suspension under N.C. Gen. Stat. §§58-33-30(g) and 58-33-46(a)(8).

Based on the foregoing Findings of Fact, the Hearing Officer makes the following:

Conclusions of Law

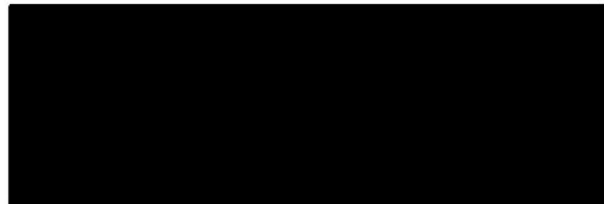
1. This matter is properly before this Hearing Officer, and the Hearing Officer has jurisdiction over the parties and the subject matter pursuant to N.C. Gen. Stat. §§58-33-30, 150B-38, 150-40, 11 N.C.A.C. 1.0401 et seq. and other applicable statutes and regulations.
2. Buckner has admitted his involvement in a scheme to file fraudulent crop/hail claims while licensed as a non-resident Property/Liability agent which constitutes grounds for license suspension pursuant to N.C. Gen. Stat. §§58-33-30(g) and 58-33-46(a)(8).
3. Buckner has used fraudulent, coercive, or dishonest practices, or demonstrated, incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State under N.C. Gen. Stat. §§58-33-30(g) and 58-33-46(a)(8).

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

Order

It is hereby ordered that the non-resident Property/Liability agent license of Buckner is revoked. This order does not preclude Buckner from reapplying for licensure at a later date.

This the 16th day of May, 2003.



Peter A. Kolbe, Hearing Officer
N.C. Department of Insurance