

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

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE
Docket Number: D-1432**

**IN THE MATTER OF
THE LICENSURE OF
DENIS A. CULVER**

FINAL AGENCY DECISION

This matter was heard on April 1, 2009 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, 58-33-45, 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 Denis A. Culver [“Mr. Culver”] failed to appear at the hearing.

Any finding of fact contained in this Decision that also constitutes a conclusion of law is hereby adopted as a conclusion of law. Likewise, any conclusion of law contained in this decision that constitutes a finding of fact is hereby adopted as a finding of fact.

After careful consideration of the evidence and arguments presented, and based upon the record as a whole, the undersigned Hearing Officer hereby renders the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Culver holds active Life and Health and Property and Liability agent’s licenses (hereinafter, “licenses”) issued by the Department.
2. In June 2008, the Department received a written consumer complaint from Rachelle Parke. In her complaint, Ms. Parke stated that Mr. Culver made a life insurance policy on her without her knowledge and consent and that Mr. Culver forged her signature to the insurance application. Ms. Parke submitted a copy of a completed application for a 5 year term, \$50,000.00 life insurance policy for Rachelle Parke with her complaint. The application had a signature for Rachelle Parke and was dated September 13, 2007.
3. By letter to State Farm Life Insurance Company (hereinafter, “State Farm”) dated June 24, 2008, Michael DiPierro, a Complaint Analyst in the Department’s Consumer Services

Division, requested State Farm to provide the Department with information on the life insurance policy that was issued to Ms. Parke and a written response to Ms. Parke's complaint.

4. John S. Norris, an Agency Field Executive for State Farm, responded to Mr. DiPierro's letter by letter dated June 25, 2008. In his letter, Mr. Norris verified that Mr. Culver was an employee of State Farm Agent Sean Pan from December 2006 until February 2008 and that Mr. Culver's licensed staff agreement with State Farm was terminated on March 5, 2008. Mr. Norris enclosed a letter from Agent Sean Pan in response to the complaint. In his letter, Mr. Pan confirmed that Mr. Culver submitted a life insurance application for Rachelle Parke on September 13, 2007 and that the policy was issued and then lapsed for nonpayment of premium on October 13, 2007. Mr. Pan further stated that he could not confirm that the signature and information on the application for Ms. Parke were valid.

5. By letter to State Farm dated June 26, 2008, Mr. DiPierro requested State Farm to provide the Department with additional information on the policy issued to Rachelle Parke. Mr. DiPierro also requested State Farm to obtain a statement from Mr. Culver which specifically addresses Ms. Parke's allegations.

6. Mr. Norris responded to Mr. DiPierro's June 26, 2008 requests to State Farm by letter dated June 27, 2008. In his response, Mr. Norris stated that an initial premium payment of \$12.97 was submitted on Mr. Culver's monthly payment account for Ms. Parke's policy. Mr. Norris further stated that Agent Sean Pan asked Mr. Culver to respond in writing to the Department and that Mr. Culver told Mr. Pan that he would submit a written response to the Department the following week.

7. Mr. DiPierro did not receive a written response from Mr. Culver the following week. In a July 21, 2008 follow up letter to Mr. DiPierro, Mr. Norris stated that he spoke to Mr. Culver on July 17, 2008. During that conversation, Mr. Culver admitted that he signed the application for Ms. Parke and told Mr. Norris that he mailed a response to the Department on July 7, 2008. Although Mr. Culver promised to fax Mr. Norris a copy of that response letter on July 18, 2008, Mr. Norris never received a faxed copy of the letter. Mr. Norris gave Mr. DiPierro the following residential address which State Farm had on file for Mr. Culver: 2408 Deanwood Drive, Raleigh, North Carolina 27615. This address was different from the residential address which Mr. Culver had on file with the Department.

8. By letter to Mr. Culver dated July 23, 2008, Mr. DiPierro requested Mr. Culver to send the Department a comprehensive written response to Ms. Parke's complaint within 10 days of receipt. Mr. DiPierro sent the letter to Mr. Culver via first class mail to the residential address that Mr. Norris provided to him.

9. Mr. Culver failed to respond to Mr. DiPierro's July 23, 2008 request. By letter dated August 18, 2008, Mr. DiPierro again requested Mr. Culver to send the Department a written response to Ms. Parke's complaint. Mr. DiPierro sent the letter via certified mail to Mr. Culver

at the business and residential address that Mr. Culver had on file with the Department. Mr. DiPierro received a signed receipt for the letter which he mailed to Mr. Culver's business address.

10. After he received the July 23, 2008 request, Mr. Culver called Mr. DiPierro and told him that he would send him a response right away. However, Mr. DiPierro never received a response. Subsequently, Mr. DiPierro referred Ms. Parke's complaint file to the Department's Agent Services Division ["Agent Services"].

11. Steve Bryant, a Complaint Analyst for Agent Services, sent a certified letter to Mr. Culver on September 16, 2008. In the letter, Mr. Bryant requested that Mr. Culver send the Department a written notarized response to Ms. Parke's complaint within 10 days from receipt of his letter. Mr. Bryant sent the letter to Mr. Culver at Mr. Culver's residential address on file with the Department and to the 2408 Deanwood Drive address provided by State Farm. Mr. Bryant received a signed receipt for the letter which he mailed to the 2408 Deanwood Drive address.

12. Mr. Bryant never received a response from Mr. Culver. On November 4, 2008, Mr. Bryant sent another letter to Mr. Culver. In this letter, Mr. Bryant outlined alleged violations of Chapter 58 by Mr. Culver and requested Mr. Culver to attend an informal conference to discuss these allegations with Agent Services on December 3, 2008. Mr. Bryant sent the letter to Mr. Culver at the 2408 Deanwood Drive address provided by State Farm. Mr. Bryant received a signed receipt for the letter. Mr. Culver failed to attend the informal conference on December 3, 2008 or to otherwise respond to Mr. Bryant's November 4, 2008 letter.

13. In February 2009, Mr. Bryant spoke with Rachelle Parke on the telephone to confirm the details of her complaint. Ms. Parke confirmed that she had no prior knowledge of the life insurance application and that she did not authorize Mr. Culver to make such application on her behalf. Ms. Parke also told Mr. Bryant that she confronted Mr. Culver about the policy and that Mr. Culver told her that he wrote the policy to meet his monthly quota with State Farm. The Department introduced the Affidavit of Ms. Parke into evidence at the hearing. In her Affidavit, Ms. Parke confirmed the details of her complaint and also stated that Mr. Culver told her that he paid the first month's premium.

14. Mr. Culver has used fraudulent and dishonest practices and has shown himself to be incompetent and untrustworthy within the meaning of N.C.G.S. § 58-33-46(a)(8).

15. Mr. Culver forged Rachelle Parke's name and signature on an application for insurance.

16. Additionally, due to Respondent's failure to appear at the administrative hearing, the undersigned Hearing Officer finds, pursuant to 11 N.C.A.C. 1.0423(a)(1), that the allegations set out in the notice of hearing are taken as true and are deemed to be proved without the need of further evidence.

CONCLUSIONS OF LAW

1. Mr. Culver was properly served with the Notice of Hearing in this matter. The Department has personal jurisdiction over Mr. Culver and subject matter jurisdiction in this matter.
2. Grounds exist to revoke Mr. Culver's agent licenses under N.C. Gen. Stat. § 58-33-46(a)(8) and (10).
3. Mr. Culver has used fraudulent and dishonest practices and has shown himself to be incompetent and untrustworthy within the meaning of N.C.G.S. § 58-33-46(a)(8). This is sufficient grounds to revoke Mr. Culver's agent licenses.
4. Mr. Culver has forged another's name and signature to an application for insurance. This is sufficient grounds to revoke Mr. Culver's licenses under N.C.G.S. § 58-33-46(a)(10).
5. The evidence presented at the hearing, in the form of testimony and the exhibits introduced, is sufficient to support a revocation of the Respondent's license.
6. Further, the allegations contained in the Notice of Hearing are taken as true pursuant to 11 N.C.A.C. 1.0423(a)(1) and are sufficient to support a revocation of the Respondent's license.
7. Mr. Culver's agent licenses should be revoked.

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

ORDER

Mr. Culver's Life and Health and Property and Liability agent's licenses are hereby revoked.

This the 17th day of April, 2009.



Stewart Johnson, Hearing Officer
N.C. Department of Insurance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I have served the attached *Final Agency Decision* by certified mail, return receipt requested, first class postage prepaid, and via State Courier Service addressed as follows to:

**Denis A. Culver
2408 Deanwood Drive
Raleigh, NC 27615**

**Anne Goco Kirby
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602-0629**

This the 17th day of April, 2009


Mary Faulkner
Paralegal
NC Department of Insurance
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