

A.H. Book  
#29723

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  
CLEVES R. DELP

ORDER AND FINAL AGENCY  
DECISION  
Docket Number: 1727

THIS matter was heard on Wednesday, August 28, 2014, by the undersigned Hearing Officer, designated by the Commissioner of Insurance (hereinafter "Commissioner") under N.C. Gen. Stat. § 58-2-55, pursuant to a Notice of Hearing that was duly issued and served.

The North Carolina Department of Insurance Agent Services Division (hereinafter, "Agent Services") was represented by Assistant Attorney General M. Denise Stanford. Agent Services Complaint Analyst Gerard Roventini testified on behalf of Agent Services.

Respondent, Cleves R. Delp (hereinafter "Respondent"), was present and testified on his own behalf at the hearing. Respondent was not represented by counsel.

The Department offered into evidence Exhibits 1 through 12, and said documents were admitted into evidence.

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

**Findings of Fact**

1. The Notice of Administrative Hearing was properly served on Respondent on April 30, 2014. The Notice of Administrative Hearing and Affidavit of Service were admitted into evidence as Exhibits 1 and 2, with attachments 2A and 2B.
2. At the request of Respondent, the hearing was continued on May 20, 2014. On June 17, 2014, the hearing was scheduled to be held at 10:00 a.m. on August 28, 2014. To accommodate Respondent's flight schedule, the hearing was rescheduled for 1:00 p.m. on August 28, 2014. The Continuance Order, the Scheduling Order and the Second Scheduling Order were admitted into evidence as Exhibit 2C.
3. At all relevant times herein, Respondent held a Nonresident Producer License with lines of authority in Life and Accident & Health or Sickness, License number 0000709662. A copy of the Licensee Summary was admitted into evidence as Exhibit 3.

4. On or about November 8, 2011, Respondent entered into an Acceptance, Waiver & Consent with the Financial Industry Regulatory Authority (hereinafter "FINRA"), without admitting or denying the findings, consenting to entry of findings related to his failure to report to his broker dealer two outside business practices and a failure to supervise another individual working in his office. Respondent consented to certain sanctions, including a thirty (30) business day suspension from associating with any FINRA member firm and a fine of twenty thousand dollars (\$20,000). A copy of the FINRA Acceptance, Waiver & Consent was admitted into evidence as Exhibit 7.

5. Based on the FINRA suspension, on or about July 23, 2013, the non-resident license issued to Respondent by the Insurance Commissioner of the State of California to act as an accident and health agent and life-only agent with variable contract authority, License Number 0G25287, was suspended for a period of four (4) weeks during which time, Respondent was ordered not to transact the business of insurance. A copy of the California Department of Insurance Order of Suspension was admitted into evidence as Exhibit 8.

6. Respondent reported the FINRA administrative action to the National Insurance Producer Registry ("NIPR") on May 7, 2012 and the California action to NIPR on October 2, 2013. A copy of the printout showing reporting by the producer to NIPR was admitted as part of Exhibit 11.

7. Respondent did not report the FINRA administrative action and the California administrative action within thirty (30) days after final disposition of the matters.

#### Conclusions of Law

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

2. Respondent was properly served with the Notice of Administrative Hearing.

3. N.C. Gen. Stat. § 58-33-32(k) requires a producer to report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within thirty (30) days after the final disposition of the matter. "Administrative action" includes enforcement action taken against the producer by FINRA.

4. Respondent failed to report the administrative action taken by FINRA until after the thirty (30) day deadline for reporting under N.C. Gen. Stat. § 58-33-32(k). Respondent's actions in failing to report the administrative action taken against him by FINRA within thirty (30) days of the final disposition of the matters constitute a violation of N.C. Gen. Stat. § 58-33-32(k).

5. Respondent failed to report the administrative action taken by the Insurance Commissioner of the State of California until after the thirty (30) day deadline for reporting under N.C. Gen. Stat. § 58-33-32(k). Respondent's actions in failing to report the administrative action taken by the Insurance Commissioner of the State of California within thirty (30) days of the final disposition of the matters constitute a violation of N.C. Gen. Stat. § 58-33-32(k).

6. N.C. Gen. Stat. § 58-33-46(a)(2) authorizes the Commissioner to take disciplinary action against a license holder if the licensee has violated any insurance law of this or any other state, violated any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violated any rule of FINRA.


7. N.C. Gen. Stat. § 58-2-70 authorizes the Commissioner to order the payment of a monetary penalty upon a finding of a violation of Chapter 58 of the North Carolina General Statutes.

8. The Hearing Officer finds that Respondent should be ordered to pay monetary penalties, pursuant to N.C. Gen. Stat. § 58-2-70, for his violations of N.C. Gen. Stat. § 58-33-32(k) of Chapter 58 of the North Carolina General Statutes. Pursuant to N.C. Gen. Stat. § 58-2-70, the Respondent should be ordered to pay a monetary penalty of \$150 for each of the two violations. The total monetary penalties should be \$300.

### Order

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent pay civil monetary penalties totaling \$300.00 within thirty (30) days of receipt of this Order and Final Agency Decision. Payment of these civil penalties shall be made payable to the "North Carolina Department of Insurance." These civil penalties shall be subject to disbursement in accordance with the provisions of Article IX, Section 7 of the North Carolina Constitution for the benefit of the public schools.

This the 25<sup>th</sup> day of September, 2014.

  
Stewart L. Johnson, Hearing Officer  
North Carolina Department of Insurance

APPEAL RIGHTS: This Order may be appealed to Superior Court within 30 days of receipt, as set forth in the General Statutes of North Carolina.

NOTICE: Be aware that if a state or federal regulator other than the N. C. Department of Insurance has issued an occupational or professional license to you, that regulator may require you to report this administrative action to it. The N.C. Department of Insurance cannot give you legal advice as to the specific reporting requirements of other state or federal regulators.