

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
HAL P. DURHAM

ORDER AND FINAL
AGENCY DECISION

Docket Number: 1922

THIS MATTER was heard on May 1, 2019 by the undersigned Hearing Officer, designated by the North Carolina Commissioner of Insurance ("Commissioner") under N.C. Gen. Stat. § 58-2-55, pursuant to a Notice of Administrative Hearing ("NOAH") that was duly issued and served on Respondent Hal P. Durham ("Respondent").

Respondent, proceeding *pro se*, failed to appear at the hearing.

Petitioner Agent Services Division ("ASD") of the North Carolina Department of Insurance ("NCDOI") was present at the hearing and was represented by Terence D. Friedman, Assistant Attorney General. NCDOI employee Jeff Miller testified at the hearing.

ASD offered into evidence Petitioner's Exhibits 1 through 7, which were admitted into evidence.

BASED UPON careful consideration of the evidence and arguments presented, and based upon the entire record in the proceeding, the Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The NCDOI is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers.

2. Respondent holds an active North Carolina license as a non-resident insurance producer.

3. Pursuant to N.C. Gen. Stat. § 58-2-69, Respondent has listed with the NCDOI residential and business addresses.

4. On March 12, 2019, the NCDOI served a copy of the March 12, 2019 NOAH on Respondent at his residential and business addresses listed with the NCDOI and at a third address via First Class U.S. Mail and First-Class U.S. Registered Mail, receipt requested. The copies of the NOAH served via regular mail to Respondent's residential and business addresses listed with the NCDOI have never been returned.

5. N.C. Gen. Stat. § 58-33-32(k) provides:

A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. As used in this subsection, 'administrative action' includes enforcement action taken against the producer by the FINRA. 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.

6. Effective December 4, 2017, the Indiana Department of Insurance denied Respondent an insurance producer's license in that state ("Indiana Action"). Respondent did not advise the Commissioner of the Indiana Action.

7. Effective May 2, 2018, the Louisiana Department of Insurance revoked Respondent's insurance producer's license in that state ("Louisiana Action"). Respondent did not advise the Commissioner of the Louisiana Action.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and he has jurisdiction over the parties and the subject matter.

2. Respondent was properly served with the NOAH in this matter.

3. N.C. Gen. Stat. § 58-33-46(a)(2) permits the Commissioner to revoke an insurance producer's license for "[v]iolating any insurance law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violating any rule of the FINRA."

4. The Indiana and Louisiana Actions are administrative actions within the meaning of N.C. Gen. Stat. § 58-33-32(k). Respondent violated N.C. Gen. Stat. § 58-33-32(k) – an insurance law of this state – by failing to report the Indiana and Louisiana Actions to the Commissioner.

ORDER


Based upon the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's North Carolina non-resident insurance producer's license be revoked.

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 the 11 NCAC 1.0413 and N.C.G.S. § 1A-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 and requires service of the Petition on all parties. 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.

This 14th day of June, 2019.


Sherri Hubbard, Hearing Officer
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing CONTINUANCE 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 address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier, addressed as follows:

Hal P. Durham
2929 Mason Avenue
Independence, MO 64052-2962

Certified Mail Tracking Number: 70170530000073185999

Hal P. Durham
2416 SE 6th Street
Lee's Summit, MO 64063

Certified Mail Tracking Number: 70170530000073186002

Terence D. Friedman
Assistant Attorney General
N.C. Department of Justice
Insurance Section
P.O. Box 629
Raleigh, NC 27602-0629

This 14th day of June, 2019.


Mary Faulkner
Paralegal
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201
(919) 807-6650