

FINDINGS OF FACT

1. Agent Services is a division of the North Carolina Department of Insurance (“NCDOI”), which is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of insurance laws and regulating and licensing insurance producers.

2. Respondent currently holds an active non-resident North Carolina insurance producer license with lines of authority in Accident & Health or Sickness and Life (“License”). Respondent’s License was first issued on April 12, 2018. Respondent is a resident of Florida. *See* Pet’r’s Ex. 3.

3. Service of the Notice of Administrative Hearing providing Respondent with due notice of the December 19, 2022 hearing was deemed perfected by first class U.S. Mail on November 22, 2022 by operation of N.C. Gen. Stat. § 58-2-69(e), as shown by the Affidavit of Service admitted into evidence at the hearing. *See* Pet’r’s Ex. 2.

4. Joe Wall is the Assistant Deputy Commissioner of Agent Services. Among his other duties, he supervises Agent Services’ Complaint Analysts.

5. In or around early June 2021, Agent Services became aware, via a report from the Regulatory Information Retrieval System (“RIRS”), which is an automatic notification system through the National Association of Insurance Commissioners (“NAIC”), that Respondent had received an adverse administrative action in New Mexico, effective June 1, 2021. *See* Pet’r’s Exs. 4 and 6.

6. The RIRS report revealed that, effective June 1, 2021, the New Mexico Office of Superintendent of Insurance had revoked Respondent’s New Mexico insurance license for demonstrated lack of fitness or trustworthiness and for failing to respond to inquiries from the New Mexico insurance regulator. *See* Pet’r’s Ex. 4.

7. While this matter was originally assigned in June 2021 to a Complaint Analyst for Agent Services named Bethany Davenport, Ms. Davenport left her position with Agent Services in November 2021. After Ms. Davenport’s departure, Mr. Wall took over the instant matter for Agent Services. *See* Pet’r’s Ex. 6.

8. The New Mexico Office of Superintendent of Insurance entered a Final Order on June 1, 2021 finding that Respondent had failed to timely request a hearing after receiving a Notice to Show Cause on April 21, 2021 and that the New Mexico Superintendent of Insurance was authorized to revoke Respondent’s insurance producer license for the reasons set forth in the Notice to Show Cause. The Notice to Show Cause indicated that the New Mexico Office of the Superintendent of Insurance received a consumer complaint and supporting evidence on June 13, 2019 indicating that Respondent had misrepresented insurance that Respondent had sold to a New Mexico consumer, in violation of New Mexico law, and that Respondent had failed to

respond to a request for information sent by the New Mexico Superintendent of Insurance on June 30, 2020, also in violation of New Mexico law. Accordingly, the June 1, 2021 Final Order revoked Respondent's New Mexico insurance producer license, effective immediately. *See* Pet'r's Ex. 8.

9. On June 4, 2021, Ms. Davenport emailed Respondent at his electronic address of record requesting that he produce documentation and a written statement regarding the New Mexico administrative action by July 1, 2021. *See* Pet'r's Ex. 7A.

10. On July 2, 2021, Ms. Davenport sent a follow-up email to Respondent at his electronic address of record noting that Respondent had failed to provide the documents and written statement requested in the June 4, 2021 email and providing notice that unless the documents and statement were received within 10 days from the date of receipt of the email, Agent Services would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195. Respondent did not provide the documentation and written statement as requested. *See* Pet'r's Exs. 6 and 7B.

11. On July 2, 2021, more than thirty days after the final disposition of the New Mexico administrative action, two documents were uploaded to the National Insurance Producer Registry's (NIPR) attachment warehouse on Respondent's behalf. The first document was an undated, signed letter from Frank DiMola, Agency Principal Officer for Heritage Health Advisors, stating that "one of our agents received correspondence from the Department of Insurance in New Mexico" and that "[t]his matter was responded to appropriately over a year ago on May 18th 2020." The second document is an undated, signed letter from Respondent providing information regarding a Cardinal Choice Limited medical plan sold on January 24, 2019 through Federal Insurance Company. *See* Pet'r's Ex. 5.

12. On July 20, 2021, Ms. Davenport emailed Respondent at his electronic address of record advising that Agent Services wished to speak with Respondent about the New Mexico administrative action at 9:00 a.m. on August 23, 2021 and that Ms. Davenport would call Respondent's residence primary phone number of record at that time. Agent Services received no response from Respondent to the July 20, 2021 email and when Ms. Davenport and Mr. Wall attempted to reach Respondent by phone at 9:00 a.m. on August 23, 2021, they were unable to reach Respondent and left a voice mail for Respondent to return their call. *See* Pet'r's Exs. 6 and 7C.

13. On August 24, 2021, Ms. Davenport again emailed Respondent at his electronic address of record advising Respondent that Agent Services was unable to reach him during the scheduled time on August 23, 2021 and that the informal conference to discuss the New Mexico administrative action was rescheduled to occur at 9:00 a.m. on September 20, 2021. However, once again, Agent Services received no response and was unable to reach Respondent. *See* Pet'r's Exs. 6 and 7D.

14. At 3:39 p.m. on September 20, 2021, Ms. Davenport received an email from insurance producer Frank DiMola indicating that Respondent “has been out with Covid for a few weeks now” and that information regarding the New Mexico administrative action had been uploaded to the NIPR attachment warehouse “months ago.” Mr. DiMola also indicated that he had “previously tried reaching out to you a few times” regarding this matter. Ms. Davenport responded to Mr. DiMola at 4:19 p.m. on September 20, 2021, stating that she had “not received any correspondence from you regarding Mr. Feldman, nor have I received any response from Mr. Feldman and have sent him several emails dating back to July.” Ms. Davenport explained that a copy of the New Mexico administrative action had not been sent directly to Agent Services nor had a copy of the New Mexico administrative action been uploaded to the NIPR attachment warehouse. *See* Pet’r’s Exs. 6 and 7E.

15. Mr. DiMola replied to Ms. Davenport via email at 5:11 p.m. on September 20, 2021 stating that Mr. DiMola had “uploaded the case from New Mexico, the original response to the complaint as well as an additional explanation” to the NIPR attachment warehouse on July 1, 2021. Ms. Davenport responded to Mr. DiMola at 8:01 a.m. on September 21, 2021, indicating that she had “no record of receiving any emails from you in June,” asking Mr. DiMola to forward her copies of any such emails, and noting that “[c]urrently, the only two documents in Mr. Feldman’s NIPR attachments warehouse are the two signed statements.” Mr. DiMola responded at 3:22 p.m. on September 21, 2021 asking “So you’re saying the case from New Mexico isn’t on there?” Ms. Davenport responded at 4:00 p.m. on September 21, 2021, “the only two attachments from July are the signed statements.” *See* Pet’r’s Exs. 6 and 7E.

16. At 5:25 p.m. on September 21, 2021, a copy of the April 14, 2021 Notice to Show Cause directed to Respondent from the New Mexico Office of the Superintendent of Insurance was uploaded to Respondent’s NIPR attachment warehouse. As of the December 19, 2022 hearing of this matter, no copy of the June 1, 2021 Final Order from the New Mexico Office of the Superintendent of Insurance revoking Respondent’s insurance producer license had been uploaded to the NIPR attachment warehouse or provided directly to Agent Services by Respondent. *See* Pet’r’s Exs. 5 and 6.

17. Respondent did not report the June 1, 2021 New Mexico administrative action to the Commissioner within thirty days after the final disposition of the matter as required by N.C. Gen. Stat. § 58-33-32(k).

18. Effective October 7, 2021, the California Department of Insurance took administrative action against Respondent by entering an Order of Summary Revocation revoking Respondent’s California insurance license for failing to timely report the New Mexico revocation order and failing to respond to the California

Insurance Commissioner's request for a written response to the New Mexico administrative action, in violation of California law. *See* Pet'r's Ex. 4 and 9.

19. On October 25, 2021, Ms. Davenport emailed Respondent at his electronic address of record requesting that he produce documentation and a written statement regarding the California administrative action within 10 days. *See* Pet'r's Ex. 7F.

20. On November 12, 2021, Ms. Davenport sent a follow-up email to Respondent directed to his electronic address of record noting that Respondent had failed to provide the documents and written statement requested in the October 25, 2021 email and providing notice that unless the documents and statement were received within 10 days from the date of receipt of the email, Agent Services would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195. Respondent did not provide the documentation and written statement as requested. *See* Pet'r's Exs. 6 and 7G.

21. Respondent did not report the October 7, 2021 California administrative action to the Commissioner within thirty days after the final disposition of the matter as required by N.C. Gen. Stat. § 58-33-32(k).

CONCLUSIONS OF LAW

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

2. Respondent was properly served with the Notice of Administrative Hearing in this matter but failed to attend the December 19, 2022 hearing or retain counsel to represent him at the hearing.

3. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one basis for the revocation of a license issued by NCDOI is violation of the insurance laws of North Carolina or any other State.

4. N.C. Gen. Stat. § 58-33-32(k) is a North Carolina insurance law that requires an insurance producer to report to the Commissioner "any administrative action" taken against the producer by another state "within 30 days after the final disposition of the matter." The statute specifies that "[t]he 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."

5. Agent Services' evidence shows that Respondent failed to report the June 1, 2021 New Mexico administrative action and the October 7, 2021 California

administrative action to the Commissioner within thirty days of the actions' respective final dispositions, as mandated by N.C. Gen. Stat. § 58-33-32(k).

6. By failing to timely report the New Mexico administrative action and the California administrative action within thirty days of their respective final dispositions, Respondent violated a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).


7. Agent Services' evidence also shows that Respondent failed to respond to written requests from Agent Services for documents and other information related to Agent Services' licensure investigation, despite Respondent's obligations to provide information to Agent Services "on demand" under N.C. Gen. Stat. §§ 58-2-185 and 58-2-195.

8. Based on the evidence received and the applicable law, the undersigned Hearing Officer concludes that Respondent's North Carolina non-resident insurance producer should be revoked under N.C. Gen. Stat. §§ 58-33-46(a)(2).

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's non-resident North Carolina Insurance Producer's license is hereby **REVOKED**.

This 7 day of March, 2023.


Alisha S. Benjamin
Hearing Officer
N.C. Department of Insurance

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 11 NCAC 01 .0413 and N.C. Gen. Stat. § 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing copies of the same via certified U.S. Mail, return receipt requested and via first class U.S. Mail to the Respondent at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier to Attorney for Petitioner, addressed as follows:

Bradley Feldman
3698 Cocoplum Cir.
Coconut Creek, FL 33063
(Respondent)

Certified Mail Tracking Number: 70200640000031858309

Nathan D. Childs
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 8th day of March, 2023.



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