

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)
CHAD MICHAEL RYAN FOLEY)
(NPN # 18761169))

Respondent.)

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2102

THIS MATTER came on for hearing on December 19, 2022, in Hearing Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, North Carolina before the undersigned Hearing Officer, as designated by the North Carolina Commissioner of Insurance (“Commissioner”) under N.C. Gen. Stat. § 58-2-55.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance (“Petitioner” or “Agent Services”), was represented by Assistant Attorney General Nathan Childs. Respondent Chad Michael Ryan Foley (“Respondent”) did not appear and was not represented by counsel at the hearing.

Agent Services moved, pursuant to 11 N.C.A.C. 1.0423(A), for the imposition of sanctions due to Respondent’s failure to appear at the hearing. Petitioner’s motion for sanctions was DENIED. The undersigned Hearing Officer proceeded to accept and consider testimony and evidence offered by Agent Services in support of its Petition at the hearing.

Agent Services’ Exhibits 1 through 12, including all subparts, were admitted into evidence.

Jeff Miller, Complaint Analyst with Agent Services, appeared and testified on behalf of Agent Services.

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

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 Casualty and Property (“License”). Respondent’s License was first issued on April 26, 2018. Respondent is a resident of Colorado. *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. Jeff Miller is a Complaint Analyst with Agent Services. Among his other duties, he handles licensure investigations of North Carolina insurance producers.

5. In or around mid-December 2020, 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 California, effective December 1, 2020. *See Pet’r’s Exs. 4 and 6.*

6. The RIRS report revealed that, effective December 1, 2020, the California Department of Insurance had issued Respondent a restricted license because Respondent had made misstatements on Respondent’s California licensure application regarding his criminal history. *See Pet’r’s Ex. 4.*

7. Mr. Miller was assigned by Agent Services to handle the enforcement matter. *See Pet’r’s Ex. 6.*

8. The California Department of Insurance entered an Order Adopting Special Notice of Defense for Denial of Application for Unrestricted License and Issuance of Restricted License and for Monetary Penalty on December 1, 2020 accepting Respondent’s agreement to pay a \$500 fine, reimburse the California Department of Insurance’s costs, and accept a restricted California license to act as an insurance agent. *See Pet’r’s Ex. 8.*

9. On January 25, 2021, Mr. Miller emailed Respondent at his business and personal electronic address of record requesting that he produce documentation and a written statement regarding the December 1, 2020 California administrative action within 10 days from the date of receipt. *See Pet’r’s Ex. 7A.*

10. On February 8, 2021, Mr. Miller sent a follow-up email to Respondent directed to his business and personal electronic address of record again requesting documentation and written statements regarding the California administrative action. Respondent did not provide the documentation and written statement as requested. *See Pet'r's Exs. 6 and 7C.*

11. On March 2, 2021, Mr. Miller emailed Respondent at his business and personal electronic address of record advising that Agent Services wished to speak with Respondent about the December 1, 2020 California administrative action at 2:00 p.m. on April 6, 2021. Agent Services received no response and Respondent was unable to be reached on April 6, 2021. *See Pet'r's Exs. 6 and 7D.*

12. On March 24, 2021, Agent Services received a second RIRS report indicating that, effective March 22, 2021, the Washington State Office of the Insurance Commissioner had revoked Respondent's Washington state insurance producer license for failure to report another state's action against him, having his license in another state placed on probation, and for failing to respond to inquiries from the Washington Insurance Commissioner. *See Pet'r's Exs. 4, 6, and 9.*

13. On April 28, 2021, Mr. Miller again emailed Respondent at his electronic address of record advising Respondent that Agent Services wished to discuss both the California and Washington administrative actions at 10:00 a.m. on May 27, 2021. However, once again, Agent Services received no response and Respondent was unable to be reached on May 27, 2021. *See Pet'r's Exs. 6 and 7E.*

14. Respondent did not report the December 1, 2020 California administrative action or the March 22, 2021 Washington administrative action to the Commissioner within thirty days after the respective final disposition dates of those actions, as required by N.C. Gen. Stat. § 58-33-32(k).

15. Any additional administrative actions that were taken against Respondent which were not included in the Petition for Administrative Hearing by the Petitioner are not being considered for this order.

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.”

5. Agent Services’ evidence shows that Respondent failed to report the December 1, 2020 California administrative action and the March 22, 2021 Washington 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 administrative actions from California, and Washington 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’ investigation of the December 1, 2020 California administrative action, 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 7th 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

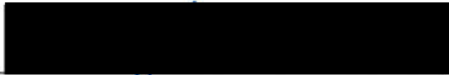
I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing copies of the same via certified U.S. Mail, return receipt requested and via first class U.S. Mail to the Respondent at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b);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

Chad Michael Ryan Foley
3923 Collins St.
Castle Rock, CO 80108-9419
(Respondent)

Certified Mail Tracking Number: 70200640000031858279

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

This 7th day of February, 2023.


Mary Faulkner
Paralegal III
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201