

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)
JOHNAYA GOUARD)
NPN #18809977)

ORDER AND
FINAL AGENCY DECISION

Respondent.)

Docket Number: 2008)

This matter was heard on Thursday, November 19, 2020, 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, 58-33-46, 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 Johnaya Gouard (hereinafter, “Respondent”) did not appear. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Anne Goco Kirby represented the North Carolina Department of Insurance, Agent Services Division (hereinafter “Petitioner” or “ASD”).

Due to Petitioner’s failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and the attached Petition for Administrative Hearing are taken as true and deemed to be proved without further evidence.

Based on the allegations set forth in the Notice of Hearing, the Petition for Administrative Hearing, Affidavit of Service, and other documentary exhibits admitted into evidence, 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 Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d).

2. At all times referenced herein, Respondent held a Non-Resident Accident & Health or Sickness License. Respondent's National Producer License Number (NPN) is 18809977.

3. On August 14, 2019, the Illinois Department of Insurance entered an order suspending Respondent's producer license (effective 30 days from the date of mailing) pursuant to Section 917 of the Illinois Income Tax Act and applicable provisions of the Illinois Insurance Code for failing to comply with certain provisions of the Illinois Individual Income Tax Act by having an unpaid Illinois Individual Tax liability, failing to file tax returns, and failing to pay tax liability for such unfiled returns, if any.

4. On December 17, 2019, the Commissioner of Insurance for the State of Washington entered an order revoking Respondent's non-resident insurance producer license (effective January 2, 2020) for having her insurance producer's license suspended by another state, failing to report the Illinois administrative action to the Washington Insurance Commissioner, failing to respond in writing to an inquiry of the Insurance Commissioner relating to the business of insurance, and violating the insurance laws and rules of the state of Washington and Illinois.

5. On April 3, 2020, the Louisiana Department of Insurance entered a Notice of Revocation Order revoking Respondent's non-resident producer license (effective within 30 days of issuance of the Notice) for having her insurance producer's license suspended by the Illinois Department of Insurance and for failing to report the Illinois administrative action taken and to submit documentation of that action to the Louisiana Department of Insurance.

6. On June 17, 2020, the South Dakota Department of Insurance denied Respondent's license application due to late or incomplete response, demonstrated lack of fitness or trustworthiness, misstatement on the application, other states action, and failure to report other state action.

7. On August 6, 2020, the Wisconsin Commissioner of Insurance entered a Notice of Forfeiture Assessment against Respondent for failing to report the administrative actions taken by other states. Pursuant to the Notice, Respondent was ordered to pay a \$500.00 fine within 30 days.

8. Respondent failed to notify the Commissioner of the administrative actions taken by Illinois, Washington, Louisiana, South Dakota, and Wisconsin

within thirty (30) days of final disposition of each of those State's actions, 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 pursuant to Chapter 58 of the North Carolina General Statutes.

2. 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 within 30 days after the final disposition of the matter.


3. N.C. Gen. Stat. § 58-33-46(a)(2) states that the Commissioner may place on probation, suspend, or revoke the license of a licensee that 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.

4. Respondent's non-resident agent's license should be suspended or revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) based upon her violation of N.C. Gen. Stat. § 58-33-32(k) by her failure to report the administrative actions taken by Illinois, Washington, Louisiana, South Dakota, and Wisconsin to the Commissioner within 30 days after final disposition of each of those actions.

ORDER

Based on the foregoing Finding of Facts and Conclusions of Law, it is ordered that Respondent's license issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

This the 1st day of December, 2020.



Meghan Cook, Hearing Officer
North Carolina 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. § 1 A-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, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. 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 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 to Attorney for Petitioner, addressed as follows:

Johnaya Gouard
5543 Mansfield PL NW
Albuquerque, NM 87114
(Respondent)

Certified Mail Tracking #: 70200640000031854028

Anne Goco Kirby
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 1st day of December, 2020.



Mary Faulkner
Paralegal II
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201