

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA)	BEFORE THE
COUNTY OF WAKE)	COMMISSIONER OF INSURANCE
)	
)	
IN THE MATTER OF:)	
)	
)	ORDER AND
THE LICENSURE OF)	FINAL AGENCY DECISION
TRACYANN NICOLE)	
HAMILTON)	
NPN #17116311)	Docket Number: 1930
)	
Respondent.)	
)	

This matter was heard on Wednesday, November 20, 2019, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca Lem represented the North Carolina Department of Insurance, Agent Services Division (hereinafter "Petitioner" or "ASD"). Respondent Tracyann Nicole Hamilton (hereinafter, "Respondent") did not appear.

At the hearing, Jeff Miller, a Complaint Analyst with ASD testified for the Petitioner. The Petitioner offered into evidence Petitioner's Exhibits 1 – 8, 10-15, and 17, which were admitted into evidence.

Petitioner made a motion to amend the Petition, which is attached to the Notice of Administrative Hearing in Exhibit 1, to strike the allegations contained in paragraphs 3 and 4 in the Petition pertaining to Florida administrative actions received by Petitioner. This motion was granted.

Additionally, due to the Respondent's failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and attached Petition (as amended) for Administrative Hearing may be taken as true or deemed to be proved without further 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 and attached Petition and the Affidavits of Service were admitted into evidence as administrative exhibits. As evinced by the Affidavits of Service (Exhibits 2a and 2b), the Notice of Hearing and attached Petition were properly served upon Respondent by Certified USPS mail and Federal Express, with Respondent signing for these envelopes. Additionally, as noted by the Affidavit of Service (Exhibit 2a), the Notice of Hearing and attached Petition were served upon Respondent by first class USPS mail to Respondent's residential address of record pursuant to N.C. Gen. Stat. §58-2-69(d).
2. Respondent is a resident of Florida.
3. The Department of Insurance (hereinafter "Department") has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. Respondent holds a non-resident producer license in the area of Accident & Health or Sickness and Life as well as a non-resident Medicare Supplement Long-Term Care license first issued by the Department on or about June 19, 2017. Respondent's National Producer Number is 17116311.
4. Effective on or about June 30, 2017, the Wisconsin Department of Insurance denied Respondent's license application based on her criminal history, her failure to make a required disclosure on the license application, and her failure to respond. (Petitioner's Exhibit 7)
5. Effective on or about November 1, 2017, the Kansas Department of Insurance revoked Respondent's license and issued a Cease and Desist order against her for demonstrated lack of fitness or trustworthiness, and for employing unlicensed individuals. (Petitioner's Exhibit 8)
6. Effective on or about January 14, 2018, the Illinois Department of Insurance revoked Respondent's license based on her failure to provide correct, complete and true information on her application, her criminal record, failure to make a required disclosure on her license application, failure to report other states' administrative actions, and other states' action. (Petitioner's Exhibit 10)
7. Effective on or about March 26, 2018, the Washington Department of Insurance entered a Consent Order against Respondent related to her failure to report other state action, pursuant to which she was fined \$250.00. (Petitioner's Exhibit 11)

8. Effective on or about March 13, 2018, the Louisiana Department of Insurance revoked Respondent's license for failure to report other states' administrative actions. (Petitioner's Exhibit 12)
9. Effective on or about October 11, 2018, the Maryland Department of Insurance revoked Respondent's license for failure to respond and failure to report other states' administrative action. (Petitioner's Exhibit 13)
10. Effective on or about December 17, 2018, the Delaware Department of Insurance entered an order against Respondent revoking her license for failure to report other states' administrative actions. (Petitioner's Exhibit 15)
11. Effective on or about February 1, 2019, the Indiana Department of Insurance entered an order of nonrenewal against Respondent due to other states' administrative actions and her failure to timely report the same. (Petitioner's Exhibit 14)

Testimony of Jeff Miller

- 12 Jeff Miller testified on behalf of ASD. Mr. Miller is a Complaint Analyst for ASD and his duties include responding to complaints and PIC alerts regarding North Carolina licensed insurance agents. Mr. Miller has been involved with the current matter involving the Petitioner since approximately November 2017.
- 13 Mr. Miller testified that ASD received a PIC alert concerning Respondent in November 2017. A PIC alert is an alert that is received automatically through the National Association of Insurance Commissioners (NAIC) any time a department of insurance enters a notification in the system that a licensee has received an administrative action. When ASD receives a PIC alert regarding a licensee, it opens an "enforcement file". Mr. Miller was assigned this enforcement file in November 2017. Once a PIC alert is received and a matter is assigned to him, Mr. Miller then pulls a report from the NAIC called a "RIRS report" which shows all administrative actions against a licensee entered by departments of insurance in the NAIC system
- 14 Initially, Mr. Miller contacted Respondent on November 20, 2017, concerning her failure to timely report administrative actions in Kansas and Wisconsin. Mr. Miller requested that she provide a notarized statement and copies of the administrative actions in Kansas and Wisconsin.

- 15 Respondent did send an email statement regarding these administrative actions, which was not notarized. However, she failed to provide copies of these administrative actions. Respondent eventually did send ASD the administrative actions for Kansas and Wisconsin, however it was several months beyond the time period for her to have timely reported these actions or respond to ASD's requests.
- 16 Between November 2017 and July 11, 2019, ASD continued to communicate with Respondent regarding additional PIC alerts ASD had received for additional administrative actions which Respondent had received in other states. These included administrative actions in Illinois (received January 14, 2018), Washington (received February 2, 2018), Louisiana (received March 18, 2018), Maryland (received October 11, 2018), Delaware (received December 17, 2018), and Indiana (received February 1, 2019). Respondent did not timely report any of these administrative actions to the Department, despite being advised that she was required to do so within thirty (30) days of the effective date of the administrative action pursuant to N. C. Gen. Stat. § 58-33-32(k). Respondent did forward the license denial email for Wisconsin and a copy of the Kansas revocation. Both were received more than thirty (30) days after the action. Respondent also forwarded the Illinois revocation more than four months later. Respondent also untimely emailed the administrative action document for Washington to ASD, about two months after the date of that action. Respondent did not ever send to the Department or upload to NIPR any of the other administrative actions despite ASD's requests that she do so.
- 17 ASD held three informal conferences via telephone conference with Respondent concerning Respondent's failure to report administrative actions, which Mr. Miller participated in on behalf of ASD.
- a. On April 24, 2018, ASD held an informal conference in which Respondent's failure to timely report the Kansas, Wisconsin, and Illinois administrative actions was discussed. Respondent was also advised that she had a Washington administrative action that she still had time to timely report.
 - b. On August 15, 2018, ASD held an informal conference in which Respondent's failure to report the Kansas, Wisconsin, Illinois, Washington, and Louisiana administrative actions was discussed.
 - c. On July 11, 2019, ASD held an informal conference in which Respondent's failure to report the Kansas, Wisconsin, Illinois, Washington, Louisiana, Maryland, Delaware, and Indiana

administrative actions was discussed.

18 Respondent was offered and accepted voluntary settlement agreements with fines following the August 15, 2018 and July 11, 2019 informal conferences, however Respondent failed to return either of the executed voluntary settlement agreements with monetary penalties to the Department.

19 Mr. Miller testified that ASD had made extensive and repeated efforts over almost two years to resolve this matter with Respondent. He also noted that Respondent had never timely reported any administrative action to the Department, despite the continued correspondence from ASD and three informal conferences concerning this exact issue. Mr. Miller testified that on behalf of ASD, he requested that Respondent's license be revoked.

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. The Notice of Administrative Hearing and attached Petition were properly served on Respondent pursuant to N. C. Gen. Stat. §58-2-69(d).
3. Pursuant to 11 NCAC 01.0423(a)(1), as a sanction for Respondent's failure to appear at the hearing, the allegations of the Notice of Hearing may be taken as true or deemed to be proved without further evidence.
4. ASD has been in contact with Respondent concerning her failure to timely report administrative actions since approximately four (4) months after Respondent first was granted her North Carolina non-resident producer license in July 2017. Respondent has been advised by ASD numerous times over the course of almost two years regarding the requirement that she report administrative actions to the Department within thirty (30) days pursuant to N.C. Gen. Stat. §58-33-32(k). ASD has participated in three (3) informal conferences with Respondent about this issue. Respondent nevertheless has continued to commit this same violation repeatedly and has never timely reported any of her numerous administrative actions to the Department.
5. Respondent's failure to report the June 30, 2017 Wisconsin administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).

6. Respondent's failure to report the November 1, 2017 Kansas administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
7. Respondent's failure to report the January 14, 2018 Illinois administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
8. Respondent's failure to report the March 26, 2018 Washington administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
9. Respondent's failure to report the March 13, 2018 Louisiana administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
10. Respondent's failure to report the October 11, 2018 Maryland administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
11. Respondent's failure to report the December 17, 2018 Delaware administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
12. Respondent's failure to report the February 1, 2019 Indiana administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. §58-33-32(k).
13. N.C. Gen. Stat. §58-33-46(a)(2) allows the Commissioner to suspend, revoke, or refuse to renew any license issued under this Article for violating any insurance law of this or any other state. Respondent's licenses are subject to suspension or revocation under N.C. Gen. Stat. §58-33-46(a)(2) for failing to report the Wisconsin, Kansas, Illinois, Washington, Louisiana, Maryland, Delaware, and Indiana administrative actions to the Department in violation of N.C. Gen. Stat. §58-33-32(k).

Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is hereby ORDERED that Respondent's licenses issued by the North Carolina Department of Insurance are REVOKED effective as of the date of the signing of this order.

This the 4th day of December, 2019.



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

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 a copy of 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.G. Gen. Stat. § 58-2-69(b); and, via State Courier, addressed as follows:

Tracyann Nicole Hamilton
7971 Riviera Blvd
Miramar, Florida 33023
Certified Mail Tracking Number: 70191120000089734213

Tracyann Nicole Hamilton
19821 NW 2 Ave, Ste. 103
Miami Gardens, FL 33156
Certified Mail Tracking Number: 70170530000073199491

Tracyann Nicole Hamilton
19821 NW 2 Ave, Ste. 103
Miami Gardens, FL 33169
Certified Mail Tracking Number: 70170530000073199484

Tracyann Nicole Hamilton
21111 NW 14 Place, Unit 333
Miami Gardens, FL 33169
Certified Mail Tracking Number: 70170530000073199477

Tracyann Nicole Hamilton
19821 NW 2 Ct, Ste. 103
Miami Gardens, FL 33169
Certified Mail Tracking Number: 70173040000098364792

Tracyann Nicole Hamilton
2735 NW 199 Terrace
Miami Gardens, FL 33056
Certified Mail Tracking Number: 70191120000089734992

This the 4th day of December, 2019.


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