

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
)	FINAL AGENCY DECISION
THE LICENSURE OF)	
JOHN HOLGIN)	Docket Number: 2004
NPN # 1257843)	
)	
Respondent.)	
)	

This matter was heard on Tuesday, October 1, 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 John Holgin (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”).

Jennifer Collins, Investigator for the Department’s Agent Services Division, appeared and testified for the Department.

Based on the allegations set forth in the Notice of Hearing, the attached Petition and Affidavit of Service in this matter, the testimony of Jennifer Collins, and the documentary exhibits presented at the hearing, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. N.C. Gen. Stat. § 58-2-69(b) requires, in pertinent part, that all licensees inform the Commissioner of the applicant’s residential address and e-mail address and to give written notification to the Commissioner of any change of the licensee’s residential or e-mail address within 10 business days after the licensee moves into the licensee’s new residence or obtains a different e-mail address.

2. N.C. Gen. Stat. § 58-2-69(d) provides that “[n]otwithstanding any other provision of law, whenever the commissioner is authorized or required to give any notice under this Chapter to a licensee, the notice may be given personally or by sending the notice by first-class mail to the licensee at the address that the licensee has provided to the Commissioner under subsection (b) of this subsection.”

3. The Notice of Administrative Hearing and attached Exhibit A (Petition for Administrative Hearing) was properly served on Petitioner by mailing it by first class mail to the Respondent at the residential address of record which Respondent has had on file pursuant to N.C. Gen. Stat. § 58-2-69(d).

4. Respondent is a resident of the State of Texas.

5. The Department has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. Respondent holds Non-Resident Life, Accident & Health or Sickness, and Medicare Supplement Long-Term Care Licenses. Respondent’s National Producer License Number (NPN) is 1257843.

6. On December 20, 2019, the Division of Insurance of the South Dakota Department of Labor and Regulation entered an order revoking Respondent’s non-resident producer license for failing to timely respond to the Division, failing to timely report an administrative action to the Division, for demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in South Dakota or elsewhere, and for having a revocation or suspension action in another state in violation of SDCL §§ 58-30-167(2), (8), and (9), 58-30-193, 58-33-66, and 58-33-68.

7. N.C. Gen. Stat. § 58-33-32(k) provides that “A producer shall report to the Commissioner any administrative action taken against the producer in another state . . . within 30 days after the final disposition of the matter. . . . 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.”

8. Respondent failed to notify the Commissioner of the administrative action taken by South Dakota within thirty (30) days of final disposition of that State’s action, as required by N.C. Gen. Stat. § 58-33-32(k).

9. By e-mail to Respondent dated February 12, 2020, Jennifer Collins, an Investigator with the Agent Services Division of the North Carolina Department of Insurance [“the Department”], informed Respondent that the Department had received information about the South Dakota action and requested that Respondent provide a written response and any documentation regarding the matter within 10

days of receipt of the e-mail.

10. Respondent did not provide any response to the Department's February 12, 2020 e-mail. By e-mail dated February 27, 2020, Ms. Collins reiterated the Department's prior February 12, 2020 request. Respondent never replied to Ms. Collins' follow up e-mail.

11. The Department scheduled an informal conference with the Respondent for April 22, 2020 in order to discuss his violation of N.C. Gen. Stat. § 58-33-32(k). The Department notified Respondent of the informal conference by e-mail on March 20, 2020. Respondent did not answer the Department's telephone call to him on the date and time of the conference. Thus, the Department referred the matter to be scheduled for an administrative hearing.

12. Petitioner requested that Respondent's license be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2).

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 was properly served on Respondent.

3. Respondent's failure to report the administrative actions against his insurance license in South Dakota within thirty (30) days of the effective date of that action is a violation of N.C.G.S. § 58-33-32(k).

4. N.C.G.S. § 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.G.S. § 58-33-46(a)(2) for failing to report the South Dakota administrative action to the Department in violation of N.C.G.S. § 58-33-32(k).

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

ORDER

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

This the 16th day of October, 2020.



A. John Hoomani
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. § 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:

John Holgin
1607 Briarpath LN
Arlington, TX 76018-1277
(Respondent)

Certified Mail Tracking #: 70100640000031853397

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 19th day of October, 2020.


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