

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)
WILLIAM JUSTICE)
NPN 6556305)

ORDER
AND FINAL
AGENCY DECISION

Docket Number: 2082

Petitioner.)
)

THIS MATTER came on for hearing on July 13, 2022, in Hearing Room #131 of the Albemarle Building, 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.

Nathan Childs, Assistant Attorney General, represented the North Carolina Department of Insurance, Agent Services Division (“Petitioner” or “ASD”). Respondent was present and represented by Nicholas J. Dowgul of North State Law.

Petitioner’s Exhibits 1 through 12, including all subparts, were admitted into evidence.

Respondent tendered three Affidavits, which were admitted into the Record by stipulation as Respondent’s Exhibits 1 through 3.

Jennifer Collins, an Agency Investigations Supervisor, testified for Petitioner.

Respondent William Justice testified on his own behalf.

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

FINDINGS OF FACT

1. The North Carolina Department of Insurance (“NCDOI”) is a state

agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers.

2. William Justice (“Respondent”) currently holds a North Carolina resident insurance producer license with lines of authority for Property, Life, Casualty, Accident & Health or Sickness, and Medicare Supplement/Long Term Care (“License”). See Pet’r’s Ex. 3.

3. Counsel for Respondent accepted service of the June 28, 2022, Notice of Administrative Hearing for July 13, 2022, as memorialized by the signed Acceptance of Service dated July 13, 2022, and admitted into evidence as Exhibit 2A. Pursuant to the signed Acceptance of Service, Respondent waived the service requirements of N.C. Gen. Stat. § 150B-38(c) and submitted himself to the jurisdiction of the North Carolina Department of Insurance.

4. Jennifer Collins is an Agency Investigations Supervisor with ASD. Ms. Collins currently supervises three employees who conduct audits of insurance agencies in the field. Pet’r’s Ex. 8.

5. Respondent was first licensed as a North Carolina resident insurance producer on February 23, 1984. *Id.*

6. Respondent was also licensed as a North Carolina resident insurance broker from April 1, 2018, through March 31, 2019. *Id.*

7. Respondent has an appointment with American General Life Insurance Co. and does not hold an appointment with any other insurer. Respondent did not hold an appointment with AmGUARD Insurance Company in 2021. See Pet’r’s Ex. 3.

8. By letter dated March 14, 2018, NCDOI received a complaint alleging that, on or about January 24, 2018, Respondent had sold a fraudulent Driver License Liability Insurance Certification form (or “DL-123”) to a Mr. Ikechukwu Agwu Acha and that no such policy existed. See Pet’r’s Ex. 5, p. 5. The letter included a copy of the purported fraudulent DL-123 issued to Mr. Acha. *Id.*, p. 7.

9. In May of 2018, ASD conducted an audit of Hix Insurance Center 5 in Greensboro, North Carolina, where Respondent worked at the time. See Pet’r’s Ex. 5.

10. On May 29, 2018, ASD examiners interviewed Respondent, and when asked about the DL-123 sold to Mr. Acha, Respondent denied having sold the DL-123 to Mr. Acha and denied ever having seen Mr. Acha. *Id.* Respondent memorialized his denial in a signed, written statement dated April 2, 2018. See *id.*, p 12.

11. ASD examiners reviewed files from Hix Insurance Center for the weeks surrounding January 24, 2018, and found no records of policies issued to Mr. Acha. *Id.* The purported fraudulent DL-123, however, listed Greenville Casualty Insurance Corporation as the issuing insurance company. *Id.* p 7.

12. The ASD examiners did not cite any violations of North Carolina statutes or regulations at that time. *See id.*

13. DOI's Criminal Investigation Division ("CID"), however, also investigated the allegation as a criminal matter, *see* Pet'r's Ex. 7, and on December 27, 2018, a warrant for Respondent's arrest was issued in Guilford County on charges of felony insurance fraud and felony obtaining property by false pretenses, *see* Pet'r's Ex. 6A. The case was given the docket number 18 CRS 091102. *Id.*

14. On May 6, 2019, the Superior Court of Guilford County, North Carolina, issued an indictment against Respondent in 18 CRS 091102, alleging that Respondent "did knowingly sell and give false and fraudulent driver's liability insurance (DL-123 Form) to five different people who needed to produce proof of a driver's liability insurance in order to receive a North Carolina Driver's License" Pet'r's Ex. 6C. The indictment listed the dates of offenses as having occurred between January 2, 2018, and November 28, 2018. *See id.*

15. On June 3, 2019, Respondent entered a plea of guilty pursuant to *Alford* in the Superior Court of Guilford County, North Carolina, in 18 CRS 091102, on a misdemeanor charge of Solicitation to Obtain Property by False Pretenses. *See* Pet'r's Ex. 6D. Respondent was 20 days imprisonment, which was suspended, and placed on 12 months unsupervised probation.

16. Respondent testified that, at the time, he believed he no longer had a producer's license due to his criminal conviction.

17. N.C. Gen. Stat. § 58-33-32(l) requires insurance producers to report to NCDOI any criminal prosecutions against them "[w]ithin 30 days after the initial pretrial hearing date or similar proceeding" and to include "a copy of the initial complaint filed, the order resulting from the hearing or similar proceeding, and any information or documents filed in the proceeding necessary to describe the prosecution."

18. N.C. Gen. Stat. § 58-2-69(c) requires that licensees notify the Commissioner if he or she is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction "within 10 days of the date of the conviction."

19. Respondent did not affirmatively report either the criminal prosecution or the resulting conviction to Petitioner.

20. On September 10, 2021, ASD examiners returned to Hix Insurance Center in Greensboro, North Carolina. *See* Pet'r's Ex. 8, p. 19. During that audit, the examiners learned that, in 2018, the area director for Hix Insurance, Mr. Michael Ream, had discovered evidence that Respondent had sold fraudulent DL-123s to at least five people who had completed a driver's education course with a man identified as "Coach Brown." *See id.*, p. 20. Mr. Ream contacted NCDOI about his discovery back in 2018. *See id.* Mr. Ream also informed the ASD examiners of Respondent's 2019 conviction on a charge relating to the sale of the fraudulent DL-123s. *See id.*, p. 20.

21. Petitioner's examiners obtained copies of additional "Driver License Liability Insurance Certification" forms signed by Respondent falsely certifying that North Carolina residents were insured drivers under nonexistent vehicle liability policies. *See, e.g.*, Pet'r's Ex. 8, pp. 29, 32.

22. After Petitioner confirmed Respondent's conviction, by letter dated September 13, 2021, ASD notified Respondent that it had reason to believe that he had sold fraudulent DL-123s, improperly misappropriated or converted monies in the course of doing insurance business, engaged in fraudulent and dishonest practices, and failed to report his criminal conviction to ASD. Pet'r's Ex. 9.

23. Respondent admitted in his testimony to having received money by way of his sale of fraudulent Driver License Liability Insurance Certification forms to multiple North Carolina consumers seeking motor vehicle liability insurance coverage.

24. In his testimony, Respondent further admitted to selling four of the five fraudulent DL-123s that lead to his criminal conviction. However, Respondent continued to deny having sold a fraudulent DL-123 to Mr. Acha and denied having been dishonest with Petitioner's investigators when questioned regarding Mr. Acha in May of 2018.

25. A copy of the fraudulent DL-123 sold to Mr. Acha was admitted into the Record. *See* Petr's' Ex. 5, p. 7. The fraudulent DL-123 appears to bear Respondent's signature. *Id.* Respondent admitted in his testimony that the signature on the certificate appeared very similar to his own but continued to deny that he had signed the fraudulent DL-123 sold to Mr. Acha, which was not credible.

26. The September 13, 2021, letter also advised Respondent to participate

in an informal conference to discuss the allegations. Respondent did participate in an informal conference held on October 14, 2021, at the North Carolina Department of Insurance in Raleigh with Ms. Collins and Agent Services Deputy Commissioner Angela Hatchell. *See Petr's Ex. 10.*

27. During that conference, Respondent informed ASD that he handled endorsements for a commercial auto policy issued by AmGUARD Insurance Company through Allstar Underwriters, LLC, to insure DMP Trucking, LLC, for his current employer, WeatherBee's Insurance Group, LLC. *See id.* This prompted ASD to investigate further whether Respondent had been acting without a broker's license and/or appointment. *See id.*

28. During the relevant period, the North Carolina General Statutes defined an insurance broker as a person who "procures insurance for a party other than himself through a duly authorized agent of an insurer that is licensed to do business in this State but for which the broker is not authorized to act as agent." N.C. Gen. Stat. § 58-33-10(3)(2021). The statutes prohibited anyone from acting or holding "him or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed." N.C. Gen. Stat. § 58-33-26(a)(2021). (This distinction between an agent and broker has since been eliminated from the General Statutes. *See N.C. Sess. L. 2022-6, effective July 7, 2022.*)

29. On October 28, 2021, Jennifer Collins obtained from Allstar Underwriters, LLC, its file for the DMP Trucking's commercial auto policy, which contained policy documents, underwriting materials, endorsements, and email communications. Email communications from this file were entered into the Record as Pet'r's Ex. 12.

30. Although Respondent did not hold an active broker's license or an appointment with AmGUARD Insurance Company at the time, between March 19, 2021, and March 23, 2021, Respondent exchanged several emails with Allstar Underwriters, Inc. procuring quotes for and ultimately procuring a BizGUARD Plus Commercial Auto Policy for DMP Trucking, LLC. Pet'r's Ex. 12A

31. Further, between April 29, 2021, and October 9, 2021, Respondent communicated with the policyholder, DMP Trucking, LLC, and submitted requests to Allstar Underwriters to amend the BizGUARD Plus Commercial Auto Policy more than a dozen times. *See Pet'r's Ex. 12B-12S.*

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 and has waived the service requirements of N.C. Gen. Stat. § 150B-38(c) by written Acceptance of Service, dated July 13, 2022, signed by Respondent's counsel of record.

3. N.C. Gen. Stat. § 58-33-46(a) specifies seventeen grounds on which the Commissioner may "place on probation, suspend, revoke, or refuse to renew" a producer's license.

4. N.C. Gen. Stat. § 58-33-46(a)(6) authorizes disciplinary action if a licensee has "been convicted of a felony or a misdemeanor involving dishonesty, a breach of trust, or moral turpitude."

5. Respondent's June 3, 2021, guilty plea to a charge of solicitation to obtain property by false pretenses constitutes a conviction for a misdemeanor involving dishonesty, a breach of trust, or moral turpitude.

6. N.C. Gen. Stat. § 58-33-46(a)(8) authorizes disciplinary action if a licensee has used "fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere."

7. Respondent's admitted sale of fraudulent DL-123s to multiple North Carolina consumers seeking motor vehicle liability insurance coverage constitutes a fraudulent or dishonest practice, demonstrating incompetence, untrustworthiness, and financial irresponsibility in Respondent's conduct of insurance business in this State.

8. N.C. Gen. Stat. § 58-33-46(a)(4) authorizes disciplinary action if a licensee has "improperly with[eld], misappropriate[ed], or convert[ed] any monies or properties received in the course of doing insurance business."

9. In selling fraudulent DL-123s, Respondent improperly misappropriated and converted monies he received while doing insurance business.

10. N.C. Gen. Stat. § 58-33-32(l) requires that licensees report to the Commissioner any criminal prosecution "[w]ithin 30 days after the initial pretrial hearing date or similar proceeding[.]"

11. N.C. Gen. Stat. § 58-2-69(c) requires that licensees notify the Commissioner if he or she is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction "within 10 days of the date of

the conviction.”

12. Respondent violated N.C. Gen. Stat. § 58-33-32(l) by failing to report his criminal prosecution in 18 CRS 091102 to the Commissioner within 30 days after Respondent’s January 28, 2019, initial pretrial hearing.

13. Respondent violated N.C. Gen. Stat. § 58-2-69(c) by failing to notify the Commissioner of his criminal conviction for solicitation to obtain property by false pretenses in 18 CRS 091102 within 10 days of June 3, 2019.

14. Prior to July 7, 2022, and at all times relevant to this action, N.C. Gen. Stat. § 58-33-5 prohibited a person from selling, soliciting, or negotiating insurance in this State “unless the person is licensed for that kind of insurance in accordance with this Article.” N.C. Gen. Stat. § 58-33-10(3) further defined “broker” to mean “a person who, being a licensed agent, procures insurance for a party other than himself through a duly authorized agent of an insurer that is licensed to do business in this State but for which the broker is not authorized to act as agent.” Persons who wished to act or hold himself or herself out to be an insurance “broker” in North Carolina were required to obtain a broker’s license. N.C. Gen. Stat. § 58-33-26(a) (2021).

15. N.C. Gen. Stat. § 58-33-40(a) forbids an individual who holds a valid insurance producer license from “either directly or for an insurance agency, solicit[ing], negotiat[ing], or otherwise act[ing] as an agent for an insurer by which the individual has not been appointed.”

16. Between March 19, 2021, and October 9, 2021, Respondent communicated with Allstar Underwriters, LLC, as an agent of AmGuard Insurance Company, in order to procure, amend, or endorse an insurance policy for DMP Trucking, LLC. Respondent was therefore acting as broker without a broker’s license, as was required by statute prior to July 7, 2022. N.C. Gen. Stat. § 58-33-10(3) (2021).

17. Between March 19, 2021, and October 9, 2021, Respondent violated N.C. Gen. Stat. § 58-30-40(a) by soliciting, negotiating, and acting as an agent for AmGUARD Insurance Company regarding DMP Trucking, LLC’s BizGUARD Plus Commercial Auto Policy when Respondent did not hold an appointment from AmGUARD Insurance Company.

18. N.C. Gen. Stat. § 58-33-46(a)(2) authorizes disciplinary action if a licensee has violated “any insurance law of this or any other state...”

19. Respondent’s violations of N.C. Gen. Stat. § 58-33-32(l), 58-2-69(c), 58-33-5, 58-33-26(a), and 58-33-40(a) constitute violations of “insurance laws” within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

20. Further, Respondent's admitted sale of fraudulent Driver License Liability Insurance Certification forms to North Carolina consumers supports findings that Respondent engaged in conduct justifying revocation of Respondent's License pursuant to N.C. Gen. Stat. §§ 58-33-46(a)(6), (a)(8) and (a)(4).

21. Considering the degree and extent of the harm caused by Respondent's actions and violations of North Carolina insurance laws related to his sale of fraudulent Driver License Liability Insurance Certification forms to North Carolina insurance consumers, as well as Respondent's subsequent violations of additional insurance laws, permanent revocation of Respondent's License is warranted on this Record.

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

ORDER

It is ORDERED that Respondent's resident insurance producer's license is hereby REVOKED.

NOTICE OF APPEAL

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 the 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, 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.

This the 29th day of August, 2022.



Erin E. Gibbs, Hearing Officer

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, in a first-class postage prepaid envelope, and via State Courier, addressed as follows:

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This the 29th day of August, 2022.


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