

REVOCAATION

J.R.

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  
CAROL KELLUM

ORDER AND  
FINAL AGENCY DECISION  
Docket Number: 3254

This matter was heard on March 10, 2011, 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 Dobbs Building, located at 420 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca E. Lem represented the North Carolina Department in Insurance, Agent Services Division (hereinafter "Agent Services"). Ms. Kellum (hereinafter, "Respondent") did not appear.

Agent Services was provided the opportunity to put on evidence and introduce exhibits into the record. Mr. Gerald Roventini testified for Agent Services. As such, the 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 the Respondent pursuant to North Carolina Rule of Civil Procedure 4(j)(1)(d), and also pursuant to N.C. Gen. Stat. § 58-2-69(d).

2. Carol Kellum (hereinafter "Respondent") is a resident of Missouri, and currently holds a non-resident agent license issued by the North Carolina Department of Insurance ("Department") on or about September 24, 2004.

3. When the Respondent completed her North Carolina agent license application in 2004, she answered "No" to the screening question which asked whether she had any criminal convictions.

4. Certified records obtained from the Missouri Department in Insurance reflect the following:

- a. That on or about March, 2010, the Respondent entered into a "Voluntary Forfeiture" and paid a \$250.00 fine related to her false answer on a Missouri producer application in 2004.
- b. That on her 2004 Missouri producer application, the Respondent answered a screening question indicating that she had not previously been convicted of a crime.
- c. That the Respondent had in fact entered a guilty plea in September 2000 in Missouri for the class A misdemeanor of "Fraudulently Stopping Payment", a violation of Section 570.125 of the Missouri Revised Statutes (hereinafter referred to as, "former Missouri criminal conviction").

5. Certified records obtained from the California Department of Insurance show that in 2005, the California Department of Insurance instigated administrative proceedings against the Respondent's insurance license due to her false answer on a license application regarding her

former Missouri criminal conviction. In response to this action, the Respondent voluntarily surrendered her California insurance license in 2006.

6. Certified records obtained from the Idaho Department of Insurance show that in 2006, the Idaho Department of Insurance instigated administrative proceedings against the Respondent's insurance license due to her false answer on a license application regarding her former Missouri criminal conviction. The Respondent did not respond to the administrative proceedings, and in May 2010 her Idaho insurance license was revoked.

7. Certified records received from the Alabama Department of Insurance show that in 2010, the Alabama Department of Insurance instigated administrative proceedings against the Respondent's insurance license due to her false answer on a license application regarding her former Missouri criminal conviction and Respondent's failure to report previous administrative actions in other states. The Respondent did not respond to the administrative proceedings, and in April 2010 her Alabama insurance license was suspended.

8. Certified records received from the Virginia State Corporation Commission show that in 2010, the Virginia State Corporation Commission instigated administrative proceedings against the Respondent's insurance license due to her false answer on a license application regarding her former Missouri criminal conviction. The Respondent did not respond to the administrative proceedings, and in May 2010 her Virginia insurance license was revoked.

9. The Respondent did not disclose her September 2000 Missouri criminal conviction on her license application submitted to the Department in September 2004 and submitted a false answer in response to the screening question which asked if she had any prior criminal convictions.

10. The Respondent did not, at any time, contact the Department to notify it of any of the administrative actions taken against her insurance licenses in Missouri, California, Idaho, Alabama, or Virginia.

11. Additionally, due to Respondent's failure to appear at the administrative hearing, the undersigned Hearing Officer, pursuant to 11 N.C.A.C. 1.04(a)(1), takes the allegations set out in the notice of hearing as true and deems the allegations to be proved without the need of further evidence.

#### 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 N.C. Gen. Stat. §§ 58-33-46, 150B-38, and 150-40, as well as 11 N.C.A.C. 1.0401 et seq. and other applicable statutes and regulations.

2. Respondent was properly served with the Notice of Administrative Hearing and failed to appear.

3. Pursuant to N.C.G.S. § 58-33-46(a)(1) and (3), the Respondent provided materially false information on her license application when she answered "No" to the screening question asking whether she had any criminal convictions, even though she had been convicted of "Fraudulently Stopping Payment" in Missouri in the year 2000. The Respondent therefore obtained her license through misrepresentation and fraud. Violations of N.C.G.S. § 58-33-46(a)(1) and (3) are cause for revocation of Respondent's license.



4. Respondent violated N.C.G.S. § 58-33-32(k) by her failure to timely report administrative actions against her licenses in Missouri, California, Idaho, Virginia and Alabama. Respondent's violation of N.C.G.S. § 58-33-32(k) is a violation of the insurance laws and thus is cause for revocation of Respondent's license pursuant to N.C.G.S. § 58-33-46(a)(2).

5. Respondent has been convicted of a misdemeanor involving dishonestly, "Fraudulently Stopping Payment", which is cause for revocation of Respondent's insurance license pursuant to N.C.G.S. § 58-33-46(a)(6).

6. The Respondent has had her insurance producer licenses revoked in Idaho and Virginia for reasons substantially similar to those listed in N.C.G.S. § 58-33-46(a), which is cause for revocation of the Respondent's license pursuant to N.C.G.S. § 58-33-46(a)(9).

7. Pursuant to N.C.G.S. § 58-33-46(a)(17), the Respondent's license may be revoked for any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance. Respondent's former criminal conviction for "Fraudulently Stopping Payment" constitutes cause for which the Respondent's license could have been refused at the time of issuance, and is thus cause for revocation of Respondent's license.

8. The evidence presented at the hearing, in the form of testimony and the exhibits introduced, is sufficient to support a revocation of the Respondent's license.

9. Pursuant to 11 NCAC 1.0423(a)(1), if a party fails to appear at a hearing or fails to comply with an interlocutory order of the hearing officer, the hearing officer may find that the allegations of or the issues set out in the notice of hearing or other pleading may be taken as true or deemed to be proved without further evidence.


10. Additionally, the allegations contained in the Notice of Hearing are taken as true pursuant to 11 NCAC 1.0423(a)(1), and provide independent and additional grounds sufficient to support a revocation of Respondent's license.

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that the non-resident produce license of Respondent Carol Kellum is hereby revoked.

This 5<sup>th</sup> day of April, 2011.

  
Stewart L. Johnson, Hearing Officer  
N.C. Department of Insurance  
1201 Mail Service Center  
Raleigh, NC 27699-1201


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day I have served the foregoing ORDER by Federal Express and by First Class U.S. mail, addressed as follows:

TO: Ms. Carol Kellum  
2858 Michigan Avenue  
St. Louis, MO 63118-1217

This the 8<sup>th</sup> day of April, 2011.

ROY COOPER  
Attorney General



Rebecca E. Lem  
Assistant Attorney General  
North Carolina Department of Justice  
Office of the Attorney General  
Post Office Box 629  
Raleigh, NC 27602-0629  
(919) 716-6610  
FAX (919) 716-6757  
Email: rlem@ncdoj.gov