

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)	
A'VAIE KNOX)	
NPN 17711254)	
)	Docket Number: 1902
Petitioner.)	
)	

THIS MATTER was heard on Wednesday, August 29, 2018, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance (hereinafter, "Commissioner"), under N. C. Gen. Stat. § 58-2-55, pursuant to a Notice of Hearing (hereinafter, "Notice") that was duly issued and served.

The North Carolina Department of Insurance (hereinafter, "Department"), Agent Services Division (hereinafter "Agent Services" or "ASD") was present at the hearing and was represented by Assistant Attorney General Rebecca E. Lem.

A'Vaie Knox (hereinafter, "Respondent") did not personally appear and was not represented by counsel at the hearing. Pursuant to 11 N.C.A.C. 1.0423(a), as a sanction for Respondent's failure to appear, the Hearing Officer herein finds that the allegations set out in the Notice relating to the Missouri administrative action only are to be taken as true.

In addition to the Hearing Officer's finding pursuant to 11 N.C.A.C. 1.0423(a), Agent Services was provided the opportunity to put on evidence and introduce exhibits into the record. Angela Hatchell, Deputy Commissioner, testified for Agent Services. Agent Services offered into evidence Petitioner's Exhibits 1 through 6, which were admitted into evidence. At the hearing, Agent Services withdrew its allegations related to administrative actions in Georgia and Virginia. The admitted evidence substantiated the remaining allegations set forth in the Notice.

Based upon careful consideration of the evidence and sworn testimony of the witnesses and based upon the entire record in this proceeding, the undersigned Hearing Officer makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d). The Petitioner provided as evidence an Affidavit of Service, Exhibit 2, showing that Respondent was served with the Notice both by Certified Mail (return receipt requested) and First Class U.S. Mail to the address provided by the Respondent and contained in the licensing records of Agent Services. The Notice served on Respondent via Certified Mail was returned as "Unclaimed/Being Returned to Sender." The Notice served on Respondent by First Class U.S. Mail was not returned.
2. The General Assembly of North Carolina has delegated to the Commissioner and the Department the authority and responsibility for the enforcement of Chapter 58 of the North Carolina General Statutes, including regulating and licensing insurance agents under Article 33 of that Chapter.
3. Respondent is a resident of Akron, Ohio, and currently holds a non-resident producer license, Number 17711254, issued by the Department with lines of authority in the areas of Life and Accident and Health or Sickness.
4. Ms. Hatchell is the Deputy Commissioner of the Agent Services Division of the Department. Ms. Hatchell testified that this file was initially handled by former ASD Complaint Analyst Megan Daniels, who has since left employment with the Department. Ms. Hatchell testified that she had been Ms. Daniels' supervisor, and was familiar with the file and had reviewed the file in the past week. Ms. Hatchell testified that the Petitioner's exhibits, which included a license screen (Exhibit 3), a RIRS report (Exhibit 4), and correspondence between ASD and the Respondent (Exhibits 5a-5e) are documents from the ASD file regarding this matter, and are all documents kept during the regular course of business with ASD. Additionally, a certified record from the Missouri Department of Insurance, Financial Institutions and Professional Registration regarding Respondent's administrative action in Missouri and former criminal conviction for misdemeanor marijuana possession were entered into evidence as Exhibit 6.
5. Documentary evidence admitted at the hearing and testimony shows that on or about January 20, 2017, Respondent received an administrative action against his Missouri insurance license in the form of a Voluntary Forfeiture Agreement, which became effective on or about May 22, 2017, for failure to report a misdemeanor marijuana possession conviction on his license application in violation of Section 374.210.1(1), RSMo (Non Cum. Supp. 2014). Respondent received a \$250 fine for his failure to report the conviction. (Exhibit 6)

6. Documentary evidence admitted at the hearing and testimony shows that Respondent at no time thereafter reported the Missouri administrative action to the Department or to the NIPR. Ms. Hatchell explained that a licensee may report an administrative action from another state either by sending notice directly to the Department, or by uploading a copy of the administrative action to the NIPR attachment warehouse, where it is then deemed reported to all the states in which the licensee holds licenses simultaneously.

7. Documentary evidence admitted at the hearing and testimony shows that the Department opened an enforcement file concerning Respondent's unreported Missouri administrative action following receipt of an alert and RIRS report regarding this action. (Exhibit 4) Thereafter, ASD opened an enforcement file concerning the Respondent after verifying that the Respondent had not reported the action on the NIPR attachment warehouse.

8. Documentary evidence admitted at the hearing and testimony shows that the Department contacted the Respondent on several occasions between June 19, 2017 and December 14, 2017 by letter and email, with Respondent failing to timely respond to requests for information sent on June 19, 2017 and July 6, 2017. ASD sent Respondent an informal conference notice on October 27, 2017 setting an informal conference for December 7, 2017, although no informal conference was held on December 7, 2017. Subsequently, Ms. Daniels made contact with the Respondent on or about December 14, 2017 and, after discussion with Respondent, sent him an informal conference notice rescheduling the phone conference to January 22, 2018.

9. The Department held a telephone informal conference with the Respondent regarding his failure to report the Missouri administrative action by telephone on January 22, 2018.

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. §§58-33-30, 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.

3. Respondent failed to appear at the hearing in this matter and pursuant to 11 N.C.A.C. 1.0423(a) the allegations set forth in the Notice are to be taken as true.

4. Respondent violated N.C. Gen. Stat. § 58-33-32(k) by failing to notify the Department of the administrative action taken against his insurance license by the


Missouri Department of Insurance within thirty (30) days of the dates of the administrative action. This violation of N.C. Gen. Stat. § 58-33-32(k) is a violation of the insurance laws of North Carolina for which his license may be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2).

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

ORDER

It is ordered that the non-resident producer license of Respondent A'Vaie Knox is hereby **REVOKED**.

This 26th day of September, 2018.


Sherri Hubbard
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 the 11 NCAC 1.0413 and N.C.G.S. § 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 and requires service of the Petition on all parties. 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 Respondent, addressed as follows:

A'Vaie Knox
710 Eva Walk, Apt. C
Akron, OH 44306-4405
(Respondent)

Certified Mail Tracking Number: 70170530000073199248

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

This the 26th day of September, 2018.


Mary Faulkner
Paralegal
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201