

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)	
LOVELL MCKAIL)	Docket Number: 1963
NPN # 17765415)	
)	
Respondent.)	
)	

This matter was heard on Tuesday March 10, 2020, 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 Lovell McKail (hereinafter, “Respondent”) did not appear.

Jeff Miller testified for the Petitioner. Petitioner introduced Exhibits 1-10 into evidence.

Due to the Petitioner’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 for Administrative Hearing may be taken as true or deemed to be proved without further evidence.

Based on the allegations set forth in the Notice of Hearing and attached Petition in this matter, the undersigned 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 Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure. The Notice of Administrative Hearing and attached Petition and the Affidavit of Service were admitted into evidence as administrative exhibits.

2. Respondent is a resident of Florida.
3. 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 a nonresident producer license in the area of Accident & Health or Sickness and Life first issued by the Department on or about February 12, 2016. Respondent's National Producer Number is 17765415.
4. On or about May 18, 2018 the Indiana Department of Insurance denied Respondent's insurance license application based on his failure to disclose criminal convictions in his license application.
5. Respondent did not report the May 18, 2018 Indiana administrative action to the Department within thirty (30) days.
6. On or about December 17, 2018 the Louisiana Department of Insurance revoked Respondent's insurance license based on his failure to timely disclose the Indiana administrative action.
7. Respondent did not report the December 17, 2018 the Louisiana administrative action to the Department within thirty (30) days.
8. Jeff Miller, a Complaint Analyst with the Agent Services Division of the North Carolina Department of Insurance, testified that he had sent requests for information and notices of informal conferences to Respondent on several occasions between September 20, 2018 and April 8, 2019. On April 8, 2019, Mr. Miller sent an informal conference notice for a May 9, 2019 informal conference notifying Respondent of the allegations that he had failed to timely report both the Indiana and Louisiana administrative actions.
9. On May 9, 2019, Jeff Miller held an informal conference via telephone with Respondent concerning the Indiana and Louisiana administrative actions. Respondent was offered the choice between a Voluntary Settlement Agreement, surrender of his North Carolina license, or a hearing. In a follow up email to Mr. Miller on that same day, Mr. Miller reiterated Respondent's options and gave him until May 23, 2019 to respond with his choice. Respondent never provided any response.
10. 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 Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure.

3. Pursuant to 11 NCAC 01.0423(a)(1), as sanction for Petitioner's failure to appear at the hearing, the allegations of the Notice of Hearing and attached Petition may be taken as true or deemed to be proved without further evidence.

4. The evidence presented at the hearing supports the allegations of the Notice of Hearing and Petition.

5. Respondent's failure to report the May 18, 2018 Indiana 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 December 17, 2018 Louisiana administrative action to the Department within thirty (30) days is a violation of N.C. Gen. Stat. 58-33-32(k).

7. 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 Indiana and South Dakota administrative actions 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 13th day of March 2020.



Sherril 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 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 addresses provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); to an additional address known for Respondent; and via State Courier to Attorney for Petitioner, addressed as follows:

Lovell McKail
843 NW 127th Ave.
Coral Springs, FL 33071-4426

Certified Mail Tracking #: 70191120000089734497

Lovell McKail
3731 NW 91st LN
Sunrise, FL 33351-6448

Certified Mail Tracking #: 70191120000089734480

Lovell McKail
9393 W Sample Rd
Coral Springs, FL 33065-4101

Certified Mail Tracking #: 70191120000089734473

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

This the 13th day of March 2020.



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