

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
GIAMMODA MILLER
(NPN # 16781513)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2080

THIS MATTER was heard on September 7, 2022, by the undersigned Hearing Officer, designated by the North Carolina Commissioner of Insurance (hereinafter, "Commissioner") under N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in Hearing Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance (hereinafter, "Agent Services"), was represented by Assistant Attorney General Nathan Childs. Respondent Giammoda Miller (hereinafter, "Respondent") did not appear and was not represented by counsel at the hearing.

Service of the Notice of Administrative Hearing providing Respondent with due notice of the September 7, 2022, hearing was perfected via Federal Express, a designated delivery service, on August 23, 2022, as shown by the Affidavit of Service, Federal Express proof-of-delivery tracking receipt, and Federal Express air bill admitted into evidence at the hearing.

Agent Services moved, pursuant to 11 N.C.A.C. 1.0423(A), for the imposition of sanctions due to Respondent's failure to appear at the hearing. Petitioner's motion for sanctions is DENIED. The undersigned Hearing Officer proceeded to accept and consider testimony and evidence offered by Agent Services in support of its Petition at the hearing.

Nadine Scott, Agent Services Compliance Section Supervisor, appeared and testified on behalf of Agent Services. Agent Services' Exhibits 1 through 13, including all subparts, were admitted into evidence.

BASED UPON the careful consideration of the evidence and arguments presented at the hearing by Agent Services, and based upon the entire record in this proceeding, the Hearing Officer hereby makes the following:

FINDINGS OF FACT

1. Respondent has an active non-resident North Carolina Insurance Producer's license with lines of authority in Casualty, Property, Life, Accident & Health of Sickness, and Medicare Supplement/Long Term Care ("License"). Respondent's License was first issued on October 11, 2013.

2. Respondent is a resident of Arizona.

3. Effective August 3, 2021, the Louisiana Department of Insurance took administrative action against Respondent issuing a "Notice of Revocation Order" dated June 14, 2021 revoking Respondent's Louisiana individual producer license due to Respondent's failure to report to the Louisiana Insurance Commissioner an adverse administrative action taken against Respondent's insurance license by the State of Arizona within 30 days of its occurrence, Respondent's failure to obtain a waiver pursuant to 18 U.S.C. 1033 allowing Respondent to engage in the business of insurance following his conviction of a felony involving dishonesty or a breach of trust,¹ and Respondent's failure to respond to the Louisiana Department of Insurance's February 11, 2021, February 22, 2021, and April 28, 2021 requests for documentation and information related to the Arizona action, all in violation of Louisiana law.

4. Respondent did not report the Louisiana administrative action to the Commissioner within thirty days of its August 3, 2021, effective date, as required by N.C. Gen. Stat. § 58-33-32(k).

5. Effective November 10, 2021, the State Corporation Commission of the Commonwealth of Virginia took administrative action against Respondent issuing an "Order Revoking License" dated November 10, 2021 revoking Respondent's Virginia insurance license due to Respondent's failure to report the adverse administrative action taken against Respondent's insurance license by the State of Arizona to the Virginia State Corporation Commission within thirty days of its final disposition, and

¹ Respondent was convicted of a felony in Maricopa County, Arizona on or about June 29, 2020. Agent Services previously investigated Respondent's Arizona 2020 felony conviction and issued a written warning in May 2021 addressing Respondent's late reporting of the felony conviction as well as Respondent's failure to timely report the follow-on administrative action by the Arizona Department of Insurance and Financial Institutions. See Pet'r's Exs. 6, 9.

due to Respondent's failure to report the facts and circumstances regarding Respondent's felony conviction to the Virginia State Corporation Commission within 30 days of the conviction, in violation of Virginia law.

6. Respondent did not report the November 10, 2021, Virginia administrative action to the Commissioner within thirty days of its November 10, 2021, effective date, as required by N.C. Gen. Stat. § 58-33-32(k).

7. On November 16, 2021, Compliance Section Supervisor Scott sent correspondence to Respondent's electronic address of record requesting that Respondent produce documentation and a written statement regarding the Virginia administrative action within ten days.

8. Ms. Scott again sent correspondence to Respondent's electronic address of record on November 30, 2021 noting that Respondent had failed to provide the documents and written statement requested in the November 16, 2021 email and providing notice to Respondent that, unless the documents and statement were received within 10 days from the date of receipt of the email, Agent Services would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195.

9. No response to these requests was received from Respondent.

BASED UPON the foregoing findings of fact, the Hearing Officer makes the following:

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 but failed to attend the September 7, 2022, hearing or retain counsel to represent him at the hearing.

3. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one basis for the revocation of a license issued by the Department of Insurance is violation of the insurance laws of North Carolina.

4. N.C. Gen. Stat. § 58-33-32(k) is a North Carolina insurance law that requires an insurance producer to report to the Commissioner "any administrative action" taken against the producer by another state "within 30 days after the final disposition of the matter." Section 58-33-32(k) further specifies that 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.”

5. Agent Services’ evidence shows that Respondent failed to report the Louisiana and Virginia administrative actions to the Commissioner within thirty days of the actions’ respective final dispositions, as mandated by N.C. Gen. Stat. § 58-33-32(k).

6. By failing to timely report the Louisiana and Virginia administrative actions within thirty days of their final dispositions, Respondent violated a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

7. Agent Services’ evidence also shows that Respondent failed to respond to written requests from Agent Services for documents and other information related to its licensure investigation, despite Respondent’s obligations to provide information to Agent Services “on demand” under N.C. Gen. Stat. §§ 58-2-185 and 58-2-195.

8. Failing to provide documentation and information regarding an administrative action taken by another state is a serious offense that deprives the Department of Insurance of information directly relevant to its evaluation of whether a licensee should continue to engage in the insurance business in North Carolina. To help Agent Services supervise licensees and protect North Carolina consumers, N.C. Gen. Stat. § 58-33-32(k) requires that licensees provide a copy of “the order or consent order and other information or documents filed in the proceeding necessary to describe the action” with the licensee’s report to Agent Services. Because administrative actions can be reported online to nearly all state regulators at one time using the National Insurance Producer Registry, compliance with this provision is relatively quick and simple. Nevertheless, as of the date of this Order, Respondent has not reported the June 14, 2021, Louisiana Notice of Revocation Order or the November 10, 2021, Virginia Order Revoking License to either Agent Services or the National Insurance Producer Registry.


9. Respondent’s offenses here are further aggravated by Agent Services’ evidence that Respondent received a formal warning from Agent Services to timely report administrative actions from other states in May 2021, less than three months before the final disposition of the Louisiana action, that included specific instructions on how to report actions and upload orders and other required documents to the National Insurance Producer Registry.

10. Based on the evidence received and the applicable law, the undersigned Hearing Officer concludes that Respondent’s License should be revoked under N.C. Gen. Stat. § 58-33-46(a)(2).

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's non-resident North Carolina Insurance Producer's license is hereby **REVOKED**.

This 27th day of September, 2022.


Meghan N. Cook
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. § 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 copies of the same via certified U.S. Mail, return receipt requested and via first class U.S. Mail to the Respondent 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:

Giammoda Miller
9736 E. Balsam Ave., Apt. C201
Mesa, AZ 85208-1897
(Respondent)

Certified Mail Tracking Number: 70200640000031857982

Nathan D. Childs
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 27th day of September, 2022.



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