

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
KRISTY MOSES
NPN 9075172

Respondent.

ORDER AND
FINAL AGENCY DECISION
Docket Number: 1918

This matter was heard on Thursday, February 7, 2019, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance, pursuant to N.C. Gen. Stat. §§ 58-2-50, 58-2-55, 58-2-70, 58-33-30, 58-33-31, 58-33-46, 150B-38, 150B-39, 150B-40 and 11 NCAC 1 .0401 *et seq.*, and other applicable statutes and regulations. The administrative hearing was held in Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina.

Assistant Attorney General Rebecca E. Lem represented the North Carolina Department of Insurance (hereinafter, "Department"), Agent Services Division (hereinafter "Agent Services Division" or "Petitioner"). Kristy Moses (hereinafter, "Respondent") failed to appear at the hearing.

Agent Services Division was provided the opportunity to put on evidence and introduce exhibits into the record. Agent Services Division offered into evidence Petitioner's Exhibits 1 – 10, which were admitted into evidence. Mr. William Thomas Walls, Senior Complaint Analyst, testified for Agent Services Division.

Based upon careful consideration of the sworn testimony of the witness presented at the hearing and 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 Petitioner pursuant to N.C. Gen. Stat. § 58-2-69(d).
2. Respondent is a resident of Irving, Texas, and holds a non-resident Company/Independent Firm Adjuster's License first issued by the Department on or about September 2017 and renewed on or about April 2018.

3. On or about August 3, 2015, Respondent's Wyoming insurance license was revoked for demonstrated lack of fitness or trustworthiness and failure to pay fees, which constitutes an administrative proceeding concerning Respondent's professional or occupational license.

4. On or about July 28, 2016, Respondent's Louisiana insurance license was revoked for failure to report other state's regulatory action, which constitutes an administrative proceeding concerning Respondent's professional or occupational license.

5. On or about August 22, 2016, Respondent's Delaware insurance license was revoked for failure to report other state's regulatory action, which constitutes an administrative proceeding concerning Respondent's professional or occupational license.

6. On or about September 1, 2017, Respondent submitted to the Department an original application for her adjuster's license that required her to provide answers on a "Licensee Background Question History." On this application, Respondent answered "No" to the following background question: "Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?"

7. On or about December 6, 2017, Respondent's New Hampshire insurance license was denied for failure to respond and failure to make a required disclosure on a license application, which constitutes an administrative proceeding concerning Respondent's professional or occupational license.

8. Agent Services Division became aware of the regulatory actions against Respondent outlined above when it received a "PIC alert" from the Regulatory Information Retrieval System (RIRS) administered by the National Association of Insurance Commissioners (NAIC) which showed that Respondent had regulatory actions in Wyoming, Louisiana, Delaware, and New Hampshire. This matter was assigned to senior complaint analyst William Thomas Walls.

9. On January 5, 2018, Mr. Walls first contacted Respondent in order to request a response from Respondent, noting that she had failed to disclose these administrative actions on her 2017 license application. Respondent did not respond to Agent Services Division.

10. Mr. Walls sent Respondent an additional email on January 22, 2018 concerning the non-disclosure of the administrative actions on her 2017 original license application, to which Respondent did not respond.

11. On or about February 2, 2018, Respondent submitted to the Department a renewal application for her adjuster's license that required her to provide answers

on a "Licensee Background Question History." On this application, Respondent again answered "No" to the following background question: "Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?"

12. On February 12, 2018, Agent Services Division sent an informal conference notice to Respondent, setting the informal conference for 9:30 a.m. on April 3, 2018. Mr. Walls also sent Respondent a reminder email about the informal conference on April 2, 2018.

13. Respondent did respond by email to Agent Services Division at 4:04 p.m. on April 3, 2018, after the informal conference was originally scheduled. In this email, Respondent provided a different contact phone number. Agent Services Division held an informal conference with the Respondent on April 4, 2018 by telephone.

14. Agent Services Division sent a follow-up e-mail to Respondent on April 4, 2018, in which it outlined the following three (3) options that were proposed to Respondent at the Informal Conference to resolve the matter:

- a. A voluntary settlement agreement with a fine of \$1000¹;
- b. A surrender of Respondent's license; or
- c. An administrative hearing.

15. Agent Services Division sent several follow-up emails to Respondent between April 18, 2018 and July 9, 2018, to which Respondent never replied.

CONCLUSIONS OF LAW

1. This matter is properly before the North Carolina Commissioner of Insurance (hereinafter "Commissioner"), and the Commissioner has jurisdiction over the parties and the subject matter pursuant to N. C. Gen. Stat. §§ 58-2-55, 58-33-46, 150B-38 and 150-40, as well as 11 N.C.A.C. 01 .0401 et seq. and other applicable statutes and regulations.

2. Respondent's answer of "No" to the License Background Screening Question on her September 2017 original license application submitted to the Department concerning whether she had previous administrative actions concerning her occupational licenses was materially incorrect, misleading, incomplete, or materially untrue in violation of N.C. Gen. Stat. § 58-33-46(a)(1), as she had at that time received administrative action in Wyoming, Louisiana, and Delaware. This is

¹ On May 17, 2018, Agent Services Division sent another e-mail to Respondent in which it stated the proposed monetary penalty should have been \$250 rather than \$1,000.

a violation of this State's insurance laws for which his license may be subject to administrative action, including revocation, pursuant to N.C. Gen. Stat. § 58-33-46(a)(2).

3. Respondent's answer of "No" to the License Background Screening Question on her February 2018 renewal license application submitted to the Department concerning whether she had previous administrative actions concerning her occupational licenses was materially incorrect, misleading, incomplete, or materially untrue in violation of N.C. Gen. Stat. § 58-33-46(a)(1), as she had at that time received administrative action in Wyoming, Delaware, Louisiana, and New Hampshire, . This is a violation of this State's insurance laws for which his license may be subject to administrative action, including revocation, pursuant to 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 the Respondent's license issued by the Department be REVOKED.

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 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 19th day of February, 2019.



A/ John Hoómani
Hearing Officer
N.C. Department of Insurance

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 Petitioner, addressed as follows:

Kristy Moses
4246 W Northgate Drive
Apt. 379
Irving, TX 75062-1425
(Respondent)


Certified Mail Tracking Number: 70170530000073199767

Kristy Moses
Central Insurance
7301 State Highway 161
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Irving, TX 75039-2820
(Respondent)

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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 19th day of February, 2019.


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