

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA) COUNTY OF WAKE))) IN THE MATTER OF:)) THE LICENSURE OF) RANDALL MURPHY) NPN #8429445)) Respondent.)))	BEFORE THE COMMISSIONER OF INSURANCE ORDER AND FINAL AGENCY DECISION Docket Number: 2039
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This matter was heard on Thursday, June 10, 2021, 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 E. Lem represented the North Carolina Department of Insurance, Agent Services Division (hereinafter “Petitioner” or “ASD”). Respondent Randall Murphy (hereinafter, “Respondent”) did not appear.

Tommy Walls testified for the Petitioner. Petitioner introduced Exhibits 1-8 into evidence.

Due to the Respondent’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 in this matter, as well as documentary and testimonial evidence introduced at the hearing, 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 Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d).

2. The Notice of Administrative Hearing and attached Petition and the Affidavit of Service were admitted into evidence as administrative exhibits.

3. Respondent is a resident of South Carolina.

4. 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 Non-Resident Producer License with a line of authority in the area of Life issued by the Department, National Producer Number 8429445. Respondent's license was first issued on February 18, 2016.

5. Tommy Walls, a Senior Complaint Analyst with the Agent Services Division (ASD) of the North Carolina Department of Insurance ("Department"), testified that this matter came to ASD's attention due to a "PIC Alert", whereby the Department receives an alert when a licensee has had an adverse regulatory action in another state. These regulatory actions are reflected on the "RIRS report", which showed that Respondent had received adverse regulatory action against his insurance license effective May 9, 2018 in Illinois.

6. Mr. Walls testified that this matter was initially assigned to ASD Complaint Analyst Lisa Webb, and it was later transferred to Mr. Walls. Mr. Walls testified that upon re-assignment of this matter to him, he reviewed the entire file concerning this matter, including Ms. Webb's notes and correspondence in the file, which are kept in the regular course of business.

7. Documentary evidence admitted at the hearing showed that Ms. Webb contacted Respondent to request information concerning the Illinois administrative action, which had not been timely reported to the Department within thirty (30) days as required by statute. Respondent did reply by email to Ms. Webb indicating that he was in the process of resolving the underlying cause for the Illinois administrative action which involved his failure to pay child support. Respondent indicated he would send the requested information to ASD, however he did not do so.

8. Mr. Walls testified that the Illinois administrative action against Respondent's insurance license, whereby Respondent's Illinois insurance licenses were suspended for failure to pay child support, was an administrative action that Respondent was required to report within thirty (30) days pursuant to N.C. Gen. Stat. § 58-33-32(k).

9. Testimony and documentary evidence admitted at the hearing showed that Mr. Walls sent Respondent a notice of an informal conference set for September 5, 2019 via phone. Respondent attended this informal conference, and again he was requested to send documents and information concerning his Illinois administrative

action. Respondent did not send documents or information responsive to this request. Mr. Walls sent a follow-up email with another request for information, to which Respondent did not respond.

10. Testimony and documentary evidence admitted at the hearing showed that ASD, through counsel, subsequently offered Respondent a Voluntary Settlement Agreement (“VSA”) to resolve the issue of the unreported Illinois Administrative action. Respondent accepted this offer, and a VSA was sent to him. Respondent was given specific instructions, which included signing the VSA and returning it to the Department with the monetary penalty via trackable method. Respondent was also given a deadline to send back the VSA and monetary penalty.

11. Respondent did not send the VSA and monetary penalty back by the deadline set by ASD and requested an extension. ASD, through counsel, granted Respondent an extension of time to return the VSA and monetary penalty, however Respondent never did so. ASD through counsel sent follow-up correspondence to Respondent, to which he did not respond.

12. Petitioner requested that Respondent’s licenses be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2), noting that Respondent has failed to provide requested responses and documentation to ASD on numerous occasions, Respondent failed to return a VSA which he accepted after two opportunities to do so, and also that Respondent has shown no interest in retaining his North Carolina insurance licenses.

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 Respondent pursuant to Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. § 58-2-69(d).

3. Pursuant to 11 NCAC 01.0423(a)(1), as sanction for Respondent’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 administrative action against his insurance license in Illinois to the Department within thirty (30) days of the effective date of that action is a violation of N.C. Gen. Stat. § 58-33-32(k).

6. N.C. Gen. Stat. § 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. Gen. Stat. § 58-33-46(a)(2) for failing to report the Illinois administrative action to the Department in violation of N.C. Gen. Stat. § 58-33-32(k).

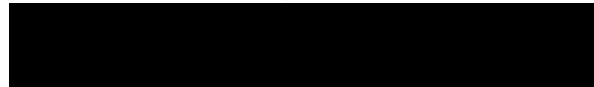
7. Respondent did not provide a response and documentation as requested in several requests sent to him and conveyed in an informal conference. Respondent also failed to return a voluntary settlement agreement which he had accepted, even after receiving an extension of time to do so.

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 29th day of June, 2021.



A. John Hoomani
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:

Randall Murphy
1644 Princes Trace Circle
Summerton, SC 29148-8402
(Respondent)

Certified Mail Tracking Number: 70200640000031856480

Randall Murphy
1235 Ashely Garden Blvd
Unit 9107
Charleston, SC 29414
(Respondent)

Certified Mail Tracking Number: 70200640000031856183

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 20th day of June, 2021.



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