

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
)	<u>FINAL AGENCY DECISION</u>
THE LICENSURE OF)	
JARED NAGEL)	Docket Number: 2041
(NPN #8437635))	
)	
Respondent.)	
)	

This matter was heard on Thursday, June 24, 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 (hereinafter “Department”), Agent Services Division (hereinafter “Petitioner” or “ASD”). Respondent Jared Nagel (hereinafter, “Respondent”) did not appear.

Bethany Davenport, Complaint Analyst, testified for the Petitioner. Petitioner introduced Exhibits 1-10 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 Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure.

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 Wisconsin.

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 Accident and Health or Sickness issued by the Department, National Producer Number 8437635. Respondent's license was first issued on August 22, 2020.

5. Bethany Davenport, Complaint Analyst with the Agent Services Division (ASD) of the North Carolina Department of Insurance, testified that this matter came to ASD's attention through a "RIRS report" which is an automatic notification system through the NAIC ("National Association of Insurance Commissioners"). The RIRS report showed that Respondent had received adverse regulatory action against his insurance license in his home state of Wisconsin.

6. Ms. Davenport testified that she retrieved a copy of the Wisconsin administrative action through the Wisconsin Department of Insurance website through the ordinary course of business. The August 13, 2020 Wisconsin administrative action is a forfeiture assessment with a \$2,000.00 penalty. The Wisconsin administrative action document specifically states that, "[t]his fine constitutes a permanent administrative action taken by the state of Wisconsin. Since you are licensed in other states, you should report this administrative action as required." Respondent received the Wisconsin administrative action due to Respondent's failure to disclose pending criminal charges and providing misleading information on his Wisconsin license application related to these pending charges. The pending charges included the felony of substantial battery, and the misdemeanors of disorderly conduct, operating a firearm while intoxicated, and violating a court order by tampering with an ignition interlock device.

7. Ms. Davenport testified that once ASD received notification of the Wisconsin administrative action through the RIRS notification, she checked to see if it had been reported to the Department, and it had not. Documentary evidence admitted at the hearing indicated that Respondent had uploaded other documents into the NIPR Attachment Warehouse, which is how licensees normally report administrative actions. Ms. Davenport stated that this showed that Respondent was aware of how to upload documents.

8. Documentary evidence admitted at the hearing shows that Ms. Davenport first contacted Respondent by email on October 26, 2020 concerning his failure to timely report the August 13, 2020 Wisconsin administrative action, requesting a response within ten (10) business days from Respondent. Ms. Davenport noted that at this point in time, Respondent was past the thirty (30) day deadline to report the administrative action per N.C. Gen. Stat. § 58-33-32(k). Respondent failed to respond to this request. Ms. Davenport sent a second such request to Respondent on November 9, 2020, and Respondent also failed to respond to this request.

9. On November 30, 2020, Ms. Davenport sent Respondent an informal conference notice via email scheduling an informal conference via telephone on January 7, 2021. Respondent responded via email on December 10, 2020, asking what “the best course of action” was. Ms. Davenport responded that he should provide a copy of the Wisconsin administrative action and attend the informal conference. Respondent did not at any time thereafter provide a copy of the Wisconsin administrative action to the Department.

10. Respondent attended the informal conference on January 7, 2021 via telephone conference. Respondent indicated that he was unaware that there is a North Carolina statute requiring that he report administrative actions to the Department within thirty (30) days. Respondent was offered a Voluntary Settlement Agreement (“VSA”) by ASD to resolve the issue of his failure to report the Wisconsin administrative action, but Respondent was not receptive to this offer. Respondent informed ASD that he wanted to “cancel” his North Carolina license as he only obtained it to help out a friend. Respondent became upset when informed that a license surrender would be considered a regulatory action. Respondent indicated that he would be “doing nothing” and “wanted nothing else to do with North Carolina”. Respondent disconnected the call with ASD.

11. Following the informal conference, on January 7, 2021, Ms. Davenport sent a follow-up email to Respondent, again offering him a VSA and also attaching a license surrender form. Respondent did not respond to Ms. Davenport’s email by the deadline of January 21, 2021.

12. On January 22, 2021, Ms. Davenport sent another email to the Respondent granting him an additional ten (10) days to accept the VSA to resolve the matter of his failure to report of the Wisconsin administrative action. Respondent never responded to this email or had any other correspondence or communication with ASD.

13. 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 and has not shown an interest in retaining his North Carolina insurance license.

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 administrative action against his Wisconsin insurance license 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 license is subject to suspension or revocation under N.C. Gen. Stat. § 58-33-46(a)(2) for his failure to report the Wisconsin administrative action to the Department in violation of N.C. Gen. Stat. § 58-33-32(k).

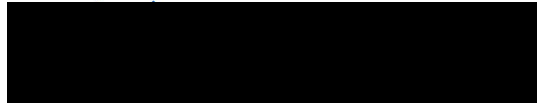
7. Respondent did not provide a response or documentation as requested by ASD on several occasions. Respondent has shown no interest in retaining his North Carolina license.

Based on the foregoing Findings of Fact 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 July, 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 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:

JARED NAGEL
3391 ROYAL OAK DR.
PLOVER, WI. 54467-3785
(Respondent)

Certified Mail Tracking Number: 70200640000031856251

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 27th day of July, 2021.


Mary Faulkner
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Raleigh, NC 27699-1201