

**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)	
BUFFETT SENIOR)	
HEALTHCARE)	ORDER AND
CORPORATION)	<u>FINAL AGENCY DECISION</u>
(NPN #16748853) and)	
BARBARA L. NORDHEM)	Docket Number: 1871
(NPN #1220529))	
Respondents.)	
)	

THIS MATTER was heard on Wednesday, October 4, 2017 by the undersigned Hearing Offer, designated by the North Carolina Commissioner of Insurance ("Commissioner") under N. C. Gen. Stat. §§ 58-2-50, 58-2-55, pursuant to a Notice of Hearing that was duly served and issued.

Respondents Buffett Senior Healthcare Corporation ("Buffett Health") and Barbara Nordhem("Nordhem"), the Designated Responsible Licensed Person appointed by Buffett Health, was not present at the hearing.

The Agent Services Division ("Agent Services") of the North Carolina Department of Insurance ("NCDOI") was present at the hearing and was represented by LaShawn Strange Piquant, Assistant Attorney General. Agent Services Senior Complaint Analyst Megan Daniels testified at the hearing.

Agent Services offered into evidence Exhibits 1 through 9, which were admitted into evidence.

Based upon careful consideration of the evidence and arguments presented, and based upon the entire record in this proceeding, the Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The North Carolina Department of Insurance is a state agency responsible for the enforcement of the insurance laws of North Carolina and for regulating and licensing insurance agents and business entities in accordance with Chapter 58 of the North Carolina General Statutes,

2. Buffet Health is an insurance business entity that is domiciled in New Castle, Delaware and has a physical location in Dallas, Texas.

3. Buffet Health was licensed by Agent Services as a non-resident business entity authorized to sell, solicit, and negotiate insurance. Buffet Health's insurance license is current and active.

4. Barbara Nordhem is a resident of Fort Worth, Texas and is licensed as a resident insurance agent in the State of Texas. Nordhem is also currently licensed as a non-resident Life and Accident, Health or Sickness producer by Agent Services. Nordhem's insurance license is current and active.

5. At all relevant times, Barbara Nordhem was the Designated Licensed Responsible Person (DRLP) appointed by Buffet Health pursuant to N.C. Gen. Stat.

§58-33-31(b)(2) as the person responsible for Buffett Health's compliance of North Carolina insurance laws.

6. John W. Yoash is a resident of North Carolina and is licensed as an insurance agent by Agent Services. Yoash was employed as a licensed insurance agent with Buffett Health. Yoash filed a complaint with Agent Services regarding his former employer, alleging that Buffett Health wrongfully deprived him of earned commissions by recouping commissions for policies that were alleged to have lapsed or cancelled by the actual policyholders.

7. In an effort to investigate Yoash's complaint, Agent Services initially contacted Nordhem and Buffett Health at the email on record on September 15, 2015 seeking specific information related to the allegations of Mr. Yoash.

8. Between September 2015 and June 2017, Agent Services made contact with by telephone, email and U.S. mail to Nordhem and Buffett Health in an effort to investigate the allegations in Mr. Yoash's complaint and to determine whether there was a violation North Carolina insurance laws.

9. While Buffett Health responded to several inquiries for information, requested supporting documentation was never furnished to Agent Services.

10. Pursuant to N.C. Gen. Stat. § 58-2-185, which provides that "all companies, agents, or brokers doing any kind of business in this State must make and keep a full and correct record of business done by them . . . information from these records must be furnished to the Commissioner on demand," Nordhem and

Buffett Health were required to maintain full and correct business records and furnish requested records on demand.

11. Also, pursuant to N.C. Gen. Stat. § 58-2-195, which provides that records required to be maintained must be furnished on demand, Nordhem and Buffett Health again failed to furnish requested records that were required to be maintained.

12. In its written response to Agent Services request dated October 6, 2015, Buffett Health provided a written response but failed to address the allegations in the complaint as well as failed to include specific policy lapse and cancellation dates requested for the policies in question.

13. Agent Services made several requests for this information from Nordhem and Buffett Health from October 2015 to December 2015.

14. On December 7, 2015, Buffett Health advised Agent Services in writing that the policies in question were not lapsed policies but instead were cancellations that were saved by managers after Mr. Yoash resigned from the company.

15. Based on the information provided by Buffett Health on December 7, 2015, Agent Services requested additional information and documentation regarding the policies in question. Specifically, Agent Services requested copies of the cancellation or reinstatement letters detailing the efforts of the manager's communication to save the business and information on chargebacks with applicable dates. This requested information was never provided to Agent Services.

16. On January 11, 2016, Buffett Health responded by email that there were actually no policy cancellations because the policies in question were not actually cancelled because they were saved prior to cancellation. Based on this response, Agent Services requested documentation related to any of the actions taken by Buffett Health resulting in commission being taken from Mr. Yoash including related recordings. No supporting documentation or recording was provided to Agent Services.

17. Buffett Health later communicated to Agent Services by email that of all the transactions involved only three policies were showing as lapsed or cancelled. Buffett Health provided no supporting documentation as requested by Agent Services.

18. From January 2017 to May 2017, Agent Services made several additional attempts to investigate the complaint of Mr. Yoash and documents and records required to be maintained and furnished on demand to Agent Services by Buffett Health and Nordhem. No supporting information was provided by neither Nordhem nor Buffett Health as requested.

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. §§58-2-50, 58-33-46, 150B-38, 150B-40 and other applicable statutes and regulations.

2. Respondents were properly served with the Notice of Hearing in this matter.

3. N.C. Gen. Stat. §58-2-185 provides that "all companies, agents, or brokers doing any kind of business in this State must make and keep a full and correct record of business done by them . . . information from these records must be furnished to the Commissioner on demand."

4. N.C. Gen. Stat. §58-2-195(a) provides that "information from records required to be kept . . . must be furnished to the Commissioner on demand. . . ."

5. Further, N.C. Gen. Stat. §58-2-195(c) states that "any person subject to the provisions of subsection (a) of this section who violates the provisions of this section or the rules and regulations prescribed by the Commissioner pursuant to the provisions of this section may after notice and hearing: for the first offense have his license or licenses (in case license be issued for more than one company in such person's case) suspended or revoked for not less than one month nor more than six months and for the second offense shall have his license or licenses (in case license be issued from more than one company in his case) suspended or revoked for the period of one year and such person shall not thereafter be licensed for one year from the date said revocation or suspension first became effective."

6. Buffett Health and Nordhem both failed to provide requested documentation that is requested to be maintained and provided upon demand pursuant to N.C. Gen. Stat. §58-2-185 and 58-2-195. Further, the evidence indicates that the request for information was submitted to both Buffett Health not once but

several times over several months thereby obstructing and thwarting Agent Services from properly investigating this matter and conducting its statutory duties.

7. The actions of Buffett Health and Nordhem are in violation of N.C. Gen. Stat. §§58-2-185 and 58-2-195 and provide sufficient grounds for administrative action pursuant N.C. Gen. Stat§ 58-33-46.

8. N.C. Gen. Stat. §58-33-46 (a)(2) provides that the Commissioner may place on probation, suspend, revoke, or refuse to renew any license for “violating any insurance law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state’s regulator, or violating any rules of the FINRA.”

9. Buffett Health and Respondent Nordhem’s failure to provide requested information to Agent Service after multiple requests pursuant to N.C. Gen. Stat. §§58-2-185 and 58-2-195 are substantial grounds for administration such as revocation pursuant to N.C. Gen. Stat. §58-33-46(a)(2).

ORDER

Based upon the foregoing Finding of Fact and Conclusions of Law, it is ORDERED that the insurance licenses of Buffett Health and Barbara Nordhem issued by Agent Services are hereby 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 21st day of December, 2017.


A. John Hoomani,
Hearing Officer

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); and via State Courier, addressed as follows:

Barbara Nordhem
Buffett Senior Healthcare Corp.
1341 Mockingbird Lane, Ste 600W
Dallas, TX 75247
(Respondent)


Certified Mail Tracking Number: 70170530000073199583

Barbara Nordhem
Buffett Senior Healthcare Corp.
42 Read's Way
New Castle, DE 19720

Certified Mail Tracking Number: 70170530000073199590

LaShawn S. Piquant
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 21st day of December, 2017.


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