

**NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA**

STATE OF NORTH CAROLINA

**BEFORE THE COMMISSIONER
OF INSURANCE**

COUNTY OF WAKE

**IN THE MATTER OF
THE LICENSURE OF
Henry Parks**

ORDER

Docket Number: 1169

**TO: Henry Parks
227 Freeland Lane
Charlotte, NC 28217**

This matter was heard on April 28, 2004 by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to North Carolina General Statute § 58-2-55. Respondent Henry Parks was not present. The Petitioner, the North Carolina Department of Insurance (NCDI), was present and was represented by Anne Goco Kirby, Assistant Attorney General.

After careful consideration of the evidence and arguments presented, and based upon the record as a whole, the undersigned Hearing Officer hereby enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. A Notice of Administrative Hearing was properly served on Respondent on April 10, 2004.
2. Respondent held active Life and Health and Property and Liability agent licenses.
3. Respondent was an agent for Cincinnati Life Insurance Company from May 1995 to July 1996.
4. In December 2002, Cincinnati Life Insurance Company received a written complaint from Mandie Cunningham Hamilton regarding misappropriation of premiums by Respondent. Respondent had written three life insurance policies for Mandie Cunningham Hamilton which were issued in 1995.
5. Phillip Van Houten, an investigator for Cincinnati Life Insurance Company, testified that he investigated the complaint of Mandie Cunningham Hamilton in December 2002.

According to the records of the Cincinnati Life Insurance Company, the three life insurance policies had lapsed in 1996 due to nonpayment of premiums.

6. Mr. Van Houten interviewed Ms. Hamilton in December 2002. During that interview, Ms. Hamilton confirmed that Mr. Parks was her agent on three life insurance policies and that he had been coming to her residence to collect cash premiums from her on those policies since 1995 until sometime in 2002, when he stopped coming to her home.
7. Mr. Van Houten testified that he interviewed the Respondent after interviewing Ms. Hamilton and that during that interview Respondent admitted that he had sold the three life insurance policies to Ms. Hamilton in 1995 and admitted that he had collected monthly cash premiums payments from Ms. Hamilton from 1995 until 2002. Respondent further admitted that he was aware that the policies had lapsed in 1996 and that he had not placed the policies with any other carrier.
8. Angela Hatchell, Administrative Deputy for Agent Services of the North Carolina Department of Insurance, testified that a complaint from Cincinnati Life Insurance Company regarding Respondent's misappropriation of \$3000 in premium from Mandie Cunningham Hamilton was forwarded to Agent Services by the Department of Insurance's Investigations Division in March 2003. After receiving the complaint, Administrative Deputy Hatchell wrote Respondent on four separate occasions between March 21, 2003 and June 30, 2003 to request that he provide information and documentation regarding the allegations from Cincinnati Life Insurance Company that he had misappropriated premiums. Although Respondent Parks wrote two letters purporting to respond to the requests, he never provided Agent Services with the information and documentation they requested.
9. On October 21, 2003, Administrative Deputy Hatchell wrote Respondent a letter outlining allegations of his violations of the insurance laws and requesting his attendance at an informal conference with Agent Services Division. Respondent attended the informal conference on November 20, 2003. Administrative Deputy Hatchell testified that Respondent admitted that he continued to collect premiums from Ms. Hamilton on the three lapsed life insurance policies until sometime in 2002. She further testified that Respondent stated that he had repaid Ms. Hamilton \$3000.00 in settlement for the premiums that he collected from her on the lapsed policies.
10. In January 2004, Administrative Deputy Hatchell spoke with Ms. Hamilton by telephone. Ms. Hamilton confirmed that Respondent had paid her \$3000.00 in settlement for the premiums that he had collected from her on the lapsed policies.

Based on the foregoing Findings of Fact, the Hearing Officer makes the following:

CONCLUSIONS OF LAW

1. This matter is properly before this Hearing Officer, and the Hearing Officer has jurisdiction over the parties and the subject matter pursuant to North Carolina General Statutes §§58-33-46, 150B-38, 150B-40, 11 N.C.A.C. 1.0401 et seq. and other applicable statutes and regulations.
2. Respondent was properly served with the Notice of Administrative Hearing and failed to appear.
3. Respondent converted \$3,000.00 in premiums received from Mandie Cunningham Hamilton during the course of doing his insurance business, in violation of N.C. Gen. Stat. § 58-33-46(a)(4). This violation alone is sufficient grounds to permanently revoke Respondent's Life and Health and Property and Liability agent's license.
4. In the conduct of his affairs under his license, Respondent has used fraudulent and dishonest practices and has shown himself to be incompetent, untrustworthy and financially irresponsible. This also constitutes grounds to revoke Respondent's licenses under N.C. Gen. Stat. § 58-33-46(a)(8).
5. Respondent violated N.C. Gen. Stat. §§ 58-2-195 and 58-2-200 by repeatedly failing to comply with Agent Services' requests that he provide information and documentation regarding the allegations that he misappropriated \$3000 in premiums. These violations of the insurance laws alone constitute sufficient ground to revoke Respondent's licenses under N.C. Gen. Stat. § 58-33-46(a)(2).


Based on the foregoing Finding of Facts and Conclusions of Law, the Hearing Officer makes the following:

ORDER

Respondent's Life and Health and Property and Liability agent licenses are hereby permanently revoked.

Agent Services shall send a copy of this file to the Mecklenburg County District Attorneys' office with a letter instructing the District Attorneys' office to take whatever prosecutorial action they deem appropriate.

This the 3rd day of May, 2004.


Peter A. Kolbe, Hearing Officer
N.C. Department of Insurance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing ORDER by certified mail, return receipt requested, first class postage prepaid, addressed as follows:

Henry Parks
227 Freeland Lane
Charlotte, NC 28217

This the _____ day of May, 2004.

Anne Goco Kirby
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