

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  
JORGE ALBERTO PENA  
(NPN# 0005698839)

Respondent.

ORDER AND  
FINAL AGENCY DECISION

Docket Number: 2064

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This matter was heard on November 4, 2021, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to North Carolina General Statutes §§ 58-33-32(k), 58-33-46(a)(2) & (9) 150B-38, 150B-39, 150B-40, 150B-41, 150B-42, and 11 NCAC 1.0401 et. seq., and other applicable statutes and regulations. Petitioner, the North Carolina Department of Insurance [“the Department”], was represented by Assistant Attorney General Anne Goco Kirby. Respondent Jorge Alberto Pena (hereinafter, “Respondent”) did not appear. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Anne Goco Kirby represented the North Carolina Department of Insurance, Agent Services Division (hereinafter “Petitioner” or “ASD”).

Due to Petitioner’s failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and the attached Petition for Administrative Hearing are taken as true and deemed to be proved without further evidence.

Jeffrey Miller, a Complaint Analyst for the Department’s ASD, testified for the Department. Based on the allegations set forth in the Notice of Hearing, the Petition for Administrative Hearing, Affidavit of Service, the testimony of Jeffrey Miller, and documentary exhibits presented 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 N.C. Gen. Stat. § 58-2-69(d).

2. At all times referenced herein, Respondent held a Non-Resident Producer License with authority for Life and Accident & Health or Sickness lines of insurance issued by the Department. Respondent's National Producer License Number (NPN) is #0005698839.

3. Effective March 12, 2010, the Missouri Department of Insurance assessed a civil penalty in the amount of \$500.00 on Mr. Pena in a Voluntary Forfeiture action against Mr. Pena because he answered "No" on his 2008 application for licensure to the question regarding whether he had ever been convicted of a crime when his criminal record indicated otherwise.

4. Effective July 19, 2010, the New York Department of Insurance also fined Mr. Pena in the amount of \$1,000.00 for failure to make a required disclosure on his license application.

5. Effective November 8, 2010, the Louisiana Department of Insurance also fined Mr. Pena in the amount of \$250.00 for failure to make a required disclosure on his license application.

6. Effective November 15, 2010, the Maine Department of Insurance revoked Mr. Pena's producer's license for failing to make a required disclosure of his criminal history on his Maine 2018 license application, for falsely answering No to the question which asked if he had ever been convicted of a crime, for the revocation of his license by North Dakota, and for failing to report other state action taken by New York against Respondent's license to Maine.

7. Effective March 31, 2011, the Louisiana Department of Insurance revoked Mr. Pena's producer's license for failing to pay a fine imposed in an earlier administrative proceeding.

8. Effective April 10, 2013, the Delaware Department of Insurance revoked Mr. Pena's producer's license for failing to report other state actions taken against his producer's license.

9. Effective August 6, 2014, the Massachusetts Department of Insurance fined Mr. Pena in the amount of \$8,000.00, ordered him to cease and desist from all insurance activity and revoked his producer's license for failing to make a required disclosure on his license application, for other state actions taken against his producer's license, and for failing to timely report other state actions which demonstrated a lack of fitness or trustworthiness on his part to carry on the business of insurance.

10. Effective August 14, 2017, the Pennsylvania Department of Insurance denied Mr. Pena's application for licensure for failing to make a required disclosure on his license application and failing to report other state actions taken against his producer's license.

11. Effective January 18, 2020, the Illinois Department of Insurance denied Mr. Pena's application for licensure for falsely answering the question which asked whether he had prior administrative actions and for failing to disclose those prior administrative actions on his license application, failing to report other states' actions taken against his license, and violating a Consent Order entered with the Illinois Department of Insurance.

12. Respondent failed to report the administrative action taken by Louisiana on November 8, 2010 and the actions taken by Illinois, Pennsylvania, Massachusetts, and Delaware. Respondent also failed to timely report the action taken by Louisiana on March 3, 2011 and the actions taken by Maine, New York and Missouri. Thus, on September 2, 2020, Agent Services sent Respondent an e-mail requesting that he provide: (a) a written explanation as to why the actions were reported late, (b) copies of the not yet reported actions, and (c) an explanation for why he had not reported the actions that were not reported.

13. On September 3, 2020, Respondent e-mailed copies of administrative actions taken by Delaware, Maine, Pennsylvania, New York, Massachusetts, Louisiana, and Illinois in response to Agent Services' September 2, 2020 request. Respondent also enclosed a letter of explanation which purported to explain the reasons for the revocation of his licenses by the states of Massachusetts, Pennsylvania, Illinois, and Delaware but which failed to explain the reasons why he had failed to report those actions previously and why he failed to report the actions taken by Maine, New York, and Missouri as ASD had requested in its September 2, 2020 e-mail.

14. On September 17, 2020, Agent Services sent an e-mail to Respondent which requested that he participate in an informal conference with Agent Services on October 21, 2020 to discuss his failure to timely report the Delaware, Illinois, Louisiana, Maine, Massachusetts, Missouri, New York and Pennsylvania administrative actions within 30 days of their effective dates in violation of N.C. Gen. Stat. Section 58-33-32(k).

15. Agent Services attempted but was unable to hold the informal conference on October 21, 2020 because the telephone number which Respondent had on file with Agent Services was not a working number. Thus, by e-mail to Respondent on October 23, 2020, Agent Services informed Respondent of what had happened, and that Agent Services had thus rescheduled the conference for November 20, 2020.

Agent Services also asked Respondent to provide a phone number where he could be reached for the informal conference.

16. On November 20, 2020, Respondent participated in the scheduled informal conference with ASD by telephone. ASD was unable to resolve the matter informally with the Respondent and thus referred the matter to counsel at the Attorney General's office for the scheduling of a hearing.

### 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. N.C. Gen. Stat. § 58-33-32(k) requires a producer to report to the Commissioner any administrative action taken against the producer in another state within 30 days after the final disposition of the matter. The report "shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the actions."

3. N.C. Gen. Stat. § 58-33-46(a)(2) states that the Commissioner may place on probation, suspend, or revoke the license of a licensee that has violated any insurance law of this or any other state, violated any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violated any rule of FINRA.

4. Respondent's non-resident agent's license should be suspended or revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) based upon his violation of N.C. Gen. Stat. § 58-33-32(k) by his failure to timely report the administrative actions taken by Illinois, Pennsylvania, Massachusetts, Delaware, Louisiana, Maine, New York and Missouri within 30 days after final disposition of each state's administrative action and based upon his violation of those states' insurance laws and regulations.

5. N.C. Gen. Stat. § 58-33-46(a)(9) states that the Commissioner may place on probation, suspend, or revoke the license of a licensee for "[h]aving an insurance producer license, or its equivalent, denied, suspended, or revoked in any other jurisdiction for reasons substantially similar to those listed in this subsection."

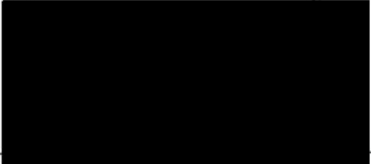
6. Respondent's non-resident agent's license should be suspended or revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(9) based upon his Maine, Louisiana, Delaware, and Massachusetts licenses having been revoked for reasons substantially similar to those listed in N.C. Gen. Stat. § 58-33-46(a).

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

**ORDER**

It is ordered that Respondent's license issued by the North Carolina Department of Insurance is hereby REVOKED effective as of the date of the signing of this order.

This the 8 day of November, 2021.

  
Tyler Radtke  
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:

Jorge Alberto Pena  
5240 NW 75TH AVE  
Lauderhill, FL 33319-6330  
*(Respondent)*

**Certified Mail Tracking #:** 0720 0640 0000 3185 6435

Anne Goco Kirby  
Assistant Attorney General  
N.C. Department of Justice  
Insurance Section  
9001 Mail Service Center  
Raleigh, NC 27699-9001  
*(Attorney for Petitioner)*

This the 3<sup>rd</sup> day of November, 2021.

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