

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 )  
SHANITHA SMITH )  
NPN # 19269553 )

Respondent. )

ORDER AND  
FINAL AGENCY DECISION

Docket Number: 2021

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This matter was heard on Thursday, February 4, 2021, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to North Carolina General Statutes §§ 58-2-70, 58-33-32, 58-33-46, 150B-38, 150B-40 and 11 N.C.A.C. 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 Shanitha Smith (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.

Bethany Davenport, a Complaint Analyst with the Department’s Agent Services Division, appeared and testified for the Department.

Based on the allegations set forth in the Notice of Hearing, the attached Petition and Affidavit of Service in this matter, the testimony of Bethany Davenport, and the 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 and attached Exhibit A (Petition for Administrative Hearing) was properly served on Petitioner by certified mail and first class mail to the Respondent at the residential address of record which Respondent has had on file pursuant to N.C. Gen. Stat. § 58-2-69(d).

2. At all relevant times, Respondent held a Non-Resident Producer license with lines of authority in Accident & Health or Sickness and Medicare Supplement/Long term Care agent's License. Respondent's National Producer License Number (NPN) is 19269553.

3. On August 26, 2020, the Georgia Department of Insurance entered into a Consent Order with Respondent for failing to disclose her criminal history in answer to a license application screening question. Although grounds existed to refuse Respondent's license application, Respondent's application for license was granted pursuant to the terms of the Consent Order, which provided that Respondent be placed on a 12 month probationary period. The Consent Order expressly provided that the Consent Order was reportable regulatory action.

4. On January 2, 2020, the Washington Department of Insurance revoked Respondent's agent's license for: (a) falsely answering "No" to the application screening question which asked whether she had ever been named or involved in any administrative action when she completed her license application on August 30, 2020, (b) failing to answer the Commissioner's inquiries, and (c) violation of Washington's insurance laws and regulations.

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

6. Respondent failed to notify the Commissioner of the administrative action taken by Georgia and Washington within thirty (30) days of final disposition of each State's action, as required by N.C. Gen. Stat. § 58-33-32(k).

7. By e-mail to Respondent dated September 9, 2020, Bethany Davenport, an Investigator with the Agent Services Division of the North Carolina Department of Insurance, informed Respondent that the Department had received information about the Georgia and Washington regulatory actions and requested that Respondent provide the Department with a written response and any documentation regarding these actions within 10 days of receipt of the e-mail. Ms. Davenport never received a response to her September 9, 2020 e-mail.

8. Ms. Davenport obtained copies of the Georgia and Washington orders and then scheduled an informal conference with the Respondent for November 2, 2020 to discuss Respondent's violation of N.C. Gen. Stat. § 58-33-32(k) by failing to report the Georgia and Washington actions. The Department notified Respondent of the date and time of the informal conference by e-mail on September 29, 2020 and informed her that the Department would call her on that date and time. Respondent

did not answer when the Department called Respondent for the conference scheduled on November 2, 2020 and did not return the voicemail messages that the Department left for her. The Department thus rescheduled the conference for November 16, 2020 and sent an e-mail to Respondent on November 5, 2020 notifying her of the new date and time of the conference. Respondent did not answer her phone when the Department called her again on November 16, 2020 for the scheduled conference and did not return the Department's voicemail messages left that date.

9. The Petitioner requested that Respondent's license be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2).

### 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.

3. Respondent failed to report the Georgia and Washington administrative actions against her insurance licenses within thirty (30) days of the effective date of each State's action in violation of N.C. Gen. Stat. § 58-33-32(k).


4. 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 failing to report the Kansas administrative action to the Department in violation of N.C. Gen. Stat. § 58-33-32(k).

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 18<sup>th</sup> day of February, 2021.

  
Robert D. Croom  
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:

Shanitha Smith  
1321 Ashley Creek Circle  
Stone Mountain, GA 30083  
*(Respondent)*

**Certified Mail Tracking #: 70200640000031855728**

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 18<sup>th</sup> day of February, 2021.



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