

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
)	FINAL AGENCY DECISION
THE LICENSURE OF)	
NICOLE STAFFORD)	Docket Number: 2052
(NPN #0019189566))	
)	
Respondent.)	
)	

This matter was heard on Thursday, August 26, 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, Agent Services Division (hereinafter “Petitioner” or “ASD”). Respondent Nicole Stafford (hereinafter, “Respondent”) did not appear.

Bethany Davenport testified for the Petitioner. Petitioner introduced Exhibits 1-12 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 and N.C. Gen. Stat. § 58-2-69(d).

2. Respondent is a resident of Raleigh, North Carolina.

3. 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 Resident Producer License with a line of authority in Personal Lines Insurance issued by the Department, National Producer Number 0019189566. Respondent's license was first issued by the Department on or about July 1, 2019.

4. Bethany Davenport, a Complaint Analyst with the Agent Services Division (ASD) of the North Carolina Department of Insurance ("Department"), 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 her insurance license in the states of South Dakota (effective September 9, 2019), Wisconsin (September 27, 2019), and Louisiana (effective May 29, 2020).

5. Ms. Davenport testified that Respondent did not report any of these three administrative actions within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k). The "NIPR Attachment Warehouse" printout, which was entered into evidence, shows that Respondent uploaded documents related to her previous criminal convictions when she applied for her license. Ms. Davenport testified that Respondent could have reported the South Dakota, Wisconsin, and Louisiana administrative actions by uploading them to the NIPR Attachment Warehouse as well, or by reporting them directly to the Department.

6. Ms. Davenport testified that she retrieved a copy of the South Dakota administrative action through the ordinary course of business. This document, which was entered into evidence, shows that on or about September 9, 2019, Respondent's received a regulatory action in the form of a license denial in South Dakota based on a prior criminal history of misdemeanor convictions. Respondent did not report this administrative action to the Department within thirty (30) days.

7. Ms. Davenport testified that she retrieved a copy of the Wisconsin administrative action through the ordinary course of business. This document, which was entered into evidence, shows that on or about September 27, 2019, Respondent's received a regulatory action in the form of a license denial in Wisconsin based on competence and trustworthiness factors for failure to respond to requests for documentation required to complete her application process. Respondent did not report this administrative action to the Department within thirty (30) days.

8. Ms. Davenport testified that she retrieved a copy of the Wisconsin administrative action through the ordinary course of business. This document, which was entered into evidence, shows that on or about May 29, 2020, Respondent's received a regulatory action in the form of a license revocation in Louisiana for failure to report the administrative actions taken by South Dakota and Wisconsin. Respondent did not report this administrative action to the Department within thirty (30) days.

9. Documentary and testimonial evidence introduced at the hearing show that Ms. Davenport made several attempts to request information from Respondent related to her unreported administrative actions. The first two attempts were unsuccessful because Respondent had not kept her email address up to date with the Department. Senior Complaint Analyst Joe Wall was able to reach Respondent by phone and get a correct email address for her, which he related to Ms. Davenport.

10. Documentary and testimonial evidence introduced at the hearing show that on July 17, 2020 Ms. Davenport sent a request for information to Respondent via the updated email address provided by Mr. Wall. Ms. Davenport requested that Respondent respond within ten (10) days. Respondent did not do so.

11. Documentary and testimonial evidence introduced at the hearing show that on July 20, 2020 Ms. Davenport sent a request for information to Respondent via her residential address of record via U.S.P.S. mail. Ms. Davenport requested that Respondent respond within ten (10) days. Respondent did not do so.

12. Documentary and testimonial evidence introduced at the hearing show that on August 6, 2020, Ms. Davenport sent Respondent an informal conference notice via email scheduling an informal conference via telephone on September 16, 2020. When ASD attempted to hold the informal conference on September 16, 2020, Respondent answered and informed them that she was dealing with a personal emergency. Ms. Davenport rescheduled the informal conference to October 23, 2020, and also asked Respondent to send a copy of the administrative actions by email, explaining to Respondent that they were available on the states' websites.

13. Documentary and testimonial evidence introduced at the hearing show that Respondent sent copies of the administrative actions to ASD via email on October 23, 2020. Respondent also attended the informal conference on October 23, 2020 via telephone conference. Respondent was offered a Voluntary Settlement Agreement ("VSA") with a five-hundred dollar (\$500.00) monetary penalty by ASD to resolve the issue of her failure to report the South Dakota, Wisconsin, and Louisiana administrative actions. That same day, ASD followed up the telephone conference with an email, reiterating the VSA offer and requesting that Respondent inform ASD of her decision to accept the VSA, surrender her license, or proceed to an

administrative hearing by November 6, 2020.

14. Documentary and testimonial evidence introduced at the hearing show that Respondent had not responded to ASD by November 6, 2020 as requested. On November 10, 2020, Ms. Davenport sent Respondent another email reiterating the offer of the VSA and requesting that Respondent advise of her decision within ten (10) days.

15. Documentary and testimonial evidence introduced at the hearing show that Respondent sent an email to Ms. Davenport on November 20, 2020 accepting the offer of a VSA. On December 1, 2020, the VSA was emailed to Respondent with instructions to return the VSA and the monetary penalty prescribed therein to ASD no later than January 4, 2021. Respondent did not return the VSA and monetary penalty.

16. Documentary and testimonial evidence introduced at the hearing show that on January 5, 2021, Ms. Davenport sent an email to Respondent informing her that ASD had not received the VSA, and asking her to provide a response within ten (10) days showing that proper documents and payment had been submitted. Respondent did not respond or return the VSA and monetary penalty.

17. Documentary and testimonial evidence introduced at the hearing show that on January 19, 2021, Ms. Davenport sent another email to Respondent informing her that ASD had not received the VSA and monetary penalty, and informing her that if the VSA was not received within seven (7) days, the matter would be referred for an administrative hearing. Respondent did not respond or return the VSA and monetary penalty, and the matter was subsequently assigned to Assistant Attorney General Rebecca Lem ("AG Lem") to assist with the administrative hearing.

18. Documentary and testimonial evidence introduced at the hearing show that on February 19, 2021, AG Lem sent an email to Respondent, copying Ms. Davenport, sending Respondent the VSA with an extended deadline. The email contained very explicit instructions on how to send back the VSA, including retaining tracking information in case the VSA was not timely received. The extended due date for Respondent to return the VSA was March 8, 2021. Respondent did not return the VSA and monetary penalty to ASD.

19. Documentary and testimonial evidence introduced at the hearing show that on March 18, 2021, AG Lem sent an email to Respondent, copying Ms. Davenport, informing Respondent that the VSA and monetary penalty had not yet been received by ASD. AG Lem advised in this email that if Respondent did not respond to the email with tracking information showing she had sent back the VSA, the matter would be scheduled for an administrative hearing. Respondent did not

respond to this email, nor was the VSA and monetary penalty ever received by ASD.

20. 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 also failed to return the VSA to which she agreed to the Department, despite having numerous opportunities and extensions of time to do so over the course of approximately five (5) months.

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 actions against her South Dakota, Wisconsin, and Louisiana insurance license to the Department within thirty (30) days of the effective date of those actions are violations 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 her failure to timely report the South Dakota, Wisconsin, and Louisiana administrative actions 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 failed to return the voluntary settlement agreement and monetary penalty that she agreed to despite being allowed numerous

opportunities and extensions of time to do so. Respondent failed to appear for this administrative hearing. Respondent has not demonstrated an interest in retaining her North Carolina license.

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 7th day of September, 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:

NICOLE STAFFORD
1216 Teakwood Place
Raleigh, NC 27606
(Respondent)

Certified Mail Tracking Number: 70200640000031856589

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 7th day of September, 2021.



Mary Faulkner
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