

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

Docket Number: D-1622

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**BEFORE THE COMMISSIONER
OF INSURANCE**

**IN THE MATTER OF
THE LICENSURE OF
FRANK STUDIVANT**

**ORDER AND FINAL AGENCY
DECISION**

THIS CAUSE came on to be heard on May 23, 2012 before the undersigned Hearing Officer, as designated by the Commissioner of Insurance, pursuant to N.C. Gen. Stat. §§ 58-2-55, 58-33-26, 58-33-30, 58-33-32, 58-33-46, 58-33-125, 150B-38, and other applicable statutes and rules, and pursuant to a notice of administrative hearing that was duly issued and served.

The Agent Services Division of the North Carolina Department of Insurance (hereinafter "Agent Services") was present and was represented by Brandon L. Truman, Assistant Attorney General.

Respondent Frank Studivant (hereinafter "Studivant") was not present, after being duly served with the notice of administrative hearing.

Agent Services offered into evidence Exhibits 1 through 6, and the said Exhibits were admitted into evidence.

After careful consideration and based on the testimony presented by a representative of Agent Services, the Exhibits introduced, and the record as a whole, the undersigned Hearing Officer hereby enters the following:

FINDINGS OF FACT

1. NCDOI has the authority and responsibility for the enforcement of insurance laws of this State, and for regulating and licensing insurance agents.
2. On or about November 4, 2010, Studivant applied to Agent Services for a nonresident insurance producer license to transact life insurance.
3. As part of the license application process, Studivant was required to pay a license fee.
4. National Insurance Producer Registry (NIPR) is duly authorized to collect license fees on behalf of NCDOI.
5. To be granted an insurance producer license, Studivant was required to pay his license fee of \$50.00 to NIPR. He was additionally required to pay \$6.18 to NIPR for related transaction fees for his license.
6. On or about November 4, 2010, Studivant made an attempted electronic payment to NIPR in the amount of \$56.18 for his producer license.
7. On or about November 23, 2010, NCDOI granted Studivant a nonresident insurance producer license to transact life insurance. His license number is NPN 114968.
8. On or about November 4, 2010, Studivant's financial institution declined the electronic payment of \$56.18 that Studivant attempted to make to NIPR. As a result of the electronic payment being declined, Studivant continued to hold an insurance producer license without having paid his license fee.
9. In a letter dated September 23, 2011, NCDOI notified Studivant that he failed to pay the foregoing \$56.18 to NIPR for his license. NCDOI's September 23, 2011 letter requested

Studivant to pay the license fee to NIPR immediately. Studivant continued to fail to pay his license fee.

10. In a letter dated October 19, 2011, NCDOI again notified Studivant that he failed to pay his license fee and that his continued failure to pay his license fee was in possible violation of North Carolina insurance laws.

12. NCDOI's October 19, 2011 letter requested Studivant to attend an informal conference on November 7, 2011 to discuss his failure to pay the license fee. Studivant failed to attend the informal conference on November 7, 2011, and he continued to fail to pay his license fee.

13. In a letter sent to and received by Studivant via certified mail dated November 28, 2011, NCDOI notified Studivant that he failed to pay his license fee and that his continued failure to pay his license fee was in possible violation of North Carolina insurance laws.

14. NCDOI's November 28, 2011 letter requested Studivant to attend an informal conference on December 22, 2011 to discuss his failure to pay the license fee. Studivant failed to attend the informal conference on December 22, 2011, and he continued to fail to pay his license fee.

15. As of the date of the administrative hearing, Studivant has not paid his license fee.

16. There is substantial evidence that supports the foregoing findings. Additionally, due to Respondent's failure to appear at the administrative hearing, the undersigned Hearing Officer finds, pursuant to 11 N.C.A.C. 1.0423(a)(1), that the allegations set out in the Notice of Hearing are taken as true and are deemed to be proved without the need of further evidence. The allegations set out in the Notice of Hearing are incorporated by reference as if set forth herein.

BASED UPON the foregoing Findings of Fact, the undersigned Hearing Officer makes the following:

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner of Insurance, and he has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Notice of the administrative hearing in this matter was timely and proper.

3. Studivant's failure to pay the license fee constitutes grounds for the Commissioner to revoke his producer license under N.C. Gen. Stat. § 58-33-46(a)(2), which provides:

(a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

(2) Violating any insurance law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner

4. Studivant's failure to pay the license fee violated N.C. Gen. Stat. § 58-33-125(c), which provides:

(c) Any person who is not licensed and who is required by law or administrative rule to secure a license shall, upon application for licensing, pay to the Commissioner a fee of fifty dollars (\$50.00).

5. Studivant's failure to pay the license fee violated N.C. Gen. Stat. § 58-33-32(c), which provides:

... a nonresident person shall receive a nonresident producer license if:
(2) The person has submitted the request for licensure in the form prescribed by the Commissioner and has paid the applicable fees required by G.S. 58-33-125

6. Studivant's failure to pay the license fee constitutes grounds for the Commissioner to revoke his producer license under N.C. Gen. Stat. §§ 58-33-46(a)(8) and 58-33-46(a)(17), which provide:

(a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.

(17) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance.

7. Studivant violated N.C. Gen. Stat. § 58-33-46(a)(8) by demonstrating incompetence and financial irresponsibility by failing to pay his license fee.

8. Under N.C. Gen. Stat. § 58-33-46(a)(17), Studivant's producer license may be revoked, suspended or not renewed because at the time his nonresident producer license was issued, the Commissioner would have refused to issue his license if the Commissioner had known that Studivant failed to pay his license fee.

9. The evidence presented at the hearing, in the form of testimony and the exhibits introduced, is sufficient to support the revocation of Studivant's license.

10. Additionally, the allegations contained in the Notice of Hearing, when taken as true pursuant to 11 N.C.A.C. 1.0423(a)(1), are also sufficient to support the revocation of Studivant's license.

11. Studivant's nonresident producer license should be revoked due to his violations of the foregoing statutes.

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Studivant's nonresident insurance producer license to transact life insurance is hereby revoked.

This 6th day of June 2012.



Stewart L. Johnson, Hearing Officer
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, North Carolina 27699-1201

Appeal Rights: This Order and Final Agency Decision may be appealed to Superior Court within 30 days of receipt of this Order, as set out in Chapter 150B of the North Carolina General Statutes.

CERTIFICATE OF SERVICE

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

Frank Studivant
6332 Colby Way
Virginia Beach, VA 23464

USPS Tracking No. 7005 2570 0002 0972 3597

This 7th day of June 2012.

ROY COOPER
ATTORNEY GENERAL



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