

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
JACQUAN MARSHAY
WAITES-RAY
(NPN # 17514509)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 1961

THIS MATTER was heard on June 3, 2021 by the undersigned Hearing Officer, designated by the North Carolina Commissioner of Insurance (hereinafter, "Commissioner") under N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in Hearing Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance (hereinafter, "Agent Services"), was represented by Assistant Attorney General Nathan Childs. Respondent Jacquan Marshay Waites-Ray (hereinafter, "Respondent") did not appear and was not represented by counsel at the hearing.

Service of the Order Granting Motion to Continue & Scheduling Order providing Respondent with due notice of the June 3, 2021 hearing was deemed perfected on May 15, 2021 pursuant to N.C. Gen. Stat. § 58-2-69(e).

Agent Services moved, pursuant to 11 N.C.A.C. 1.0423(A), for the imposition of sanctions due to Respondent's failure to appear at the hearing. Petitioner's motion for sanctions is GRANTED and, in the Hearing Officer's discretion, the allegations contained in Agent Services' Petition for Administrative Hearing are taken as true and deemed proved without further evidence.

Out of an abundance of caution, and notwithstanding the sanction imposed on Respondent, the undersigned Hearing Officer proceeded to accept and consider testimony and evidence offered by Agent Services in support of its Petition at the hearing.

Joe Wall, Compliance Section Supervisor with Agent Services, appeared and testified on behalf of Agent Services. Agent Services offered into evidence Exhibits 1 through 22, which were admitted into evidence.

BASED UPON the allegations of the Petition for Administrative Hearing which have been deemed proven, as well as careful consideration of the testimony and evidence presented at the hearing by Agent Services, and based upon the entire record in this proceeding, the Hearing Officer hereby makes the following:

FINDINGS OF FACT

1. Respondent has a non-resident North Carolina Insurance Producer's license with lines of authority for Accident and Health or Sickness, as well as a non-resident North Carolina Medicare Supplement Long-Term Care license (collectively, "License"). Respondent's non-resident Insurance Producer's license was first issued on December 21, 2016.

2. Effective February 24, 2015, the Utah Insurance Department took administrative action against Respondent, resulting in an order that sustained, but modified, the Utah Insurance Department's prior letter of denial of Respondent's application for a resident producer license and conditionally granted Respondent's application for a Utah resident producer license on a probationary basis for 24-months.

3. On August 25, 2016, during Utah's 24-month probationary period, Respondent submitted an application to the Commissioner seeking licensure in North Carolina as a non-resident insurance producer.

4. The August 25, 2016 license application asked Respondent, among other things, "[h]ave you been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration? 'Involved' means having a license censured, suspended, revoked, canceled, terminated, or being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action." Respondent answered "No" to this question on his North Carolina license application.

5. Respondent knowingly failed to disclose the February 24, 2015 Utah administrative action on his August 25, 2016 North Carolina license application.

6. Effective September 19, 2016, the Indiana Department of Insurance took administrative action against Respondent, resulting in an order that denied Respondent's application for an Indiana insurance license.

7. Respondent knowingly failed to supplement, update, or amend his August 25, 2016 North Carolina license application to disclose the September 19, 2016 Indiana administrative action and did not report the Indiana administrative action to the Commissioner after his License was issued on December 21, 2016.

8. Effective September 19, 2017, the California Department of Insurance took administrative action against Respondent, resulting in an order denying Respondent's application for a California non-resident producer license.

9. Respondent did not report the September 19, 2017 California administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

10. Effective April 3, 2018, the Louisiana Department of Insurance took administrative action against Respondent, resulting in an order requiring Respondent to pay a \$250 monetary penalty for failure to timely report the September 19, 2016 Indiana administrative action and failure to timely report the September 19, 2017 California administrative action.

11. Respondent did not report the April 3, 2018 Louisiana administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

12. Effective July 10, 2018, the Louisiana Department of Insurance took a second administrative action against Respondent, resulting in the indefinite suspension of Respondent's Louisiana insurance license due to Respondent's failure to comply with the April 3, 2018 Louisiana order requiring that Respondent pay a \$250 monetary penalty.

13. Respondent did not report the July 10, 2018 Louisiana administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

14. Effective December 17, 2018, the Delaware Department of Insurance took administrative action against Respondent, resulting in an order revoking Respondent's Delaware insurance license and requiring Respondent to pay a \$500 monetary penalty due to Respondent's failure to timely report the April 3, 2018 and July 10, 2018 Louisiana administrative actions.

15. Respondent did not report the December 17, 2018 Delaware administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

16. Effective March 12, 2019, the Florida Department of Financial Services, Division of Agent and Agency Services took administrative action against Respondent, resulting in the denial of Respondent's application for a Florida insurance license.

17. Respondent did not report the March 12, 2019 Florida administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

18. Effective November 5, 2019, the California Department of Insurance took a second administrative action against Respondent, resulting in an order summarily denying Respondent's application for a California insurance license.

19. Respondent did not report the November 5, 2019 California administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

20. Effective October 15, 2020, the California Department of Insurance took a third administrative action against Respondent, resulting in an order summarily denying Respondent's application for a California insurance license.

21. Respondent did not report the October 15, 2020 California administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

22. Effective December 10, 2020, the Virginia State Corporation Commission took administrative action against Respondent, resulting in an order revoking Respondent's Virginia insurance license for failure to timely report administrative actions taken by other jurisdictions and for providing materially incorrect or incomplete information on three Virginia license applications.

23. Respondent did not report the December 10, 2020 Virginia administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

24. Effective January 15, 2021, the South Dakota Division of Insurance took administrative action against Respondent, resulting in the denial of Respondent's application for a South Dakota insurance license.

25. Respondent did not report the January 15, 2021 South Dakota administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

26. Effective February 19, 2021, the Washington Office of the Insurance Commissioner took administrative action against the Respondent, resulting in an

order revoking Respondent's Washington insurance license due to Respondent's failure to timely report the December 10, 2020 Virginia administrative action.

27. Respondent did not report the February 21, 2021 Washington administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k).

BASED UPON the foregoing findings of fact, the Hearing Officer makes the following:

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter.

2. Respondent was properly served with the Notice of Administrative Hearing and Order Granting Motion to Continue & Scheduling Order in this matter.

3. By failing to appear at the hearing, Respondent is subject to a sanction under 11 N.C.A.C. 1.0423(A) and, after considering lesser sanctions, this Court concludes that the appropriate sanction is to take the allegations contained in Agent Services' Petition for Administrative Hearing to be true and deemed proved without further evidence.

4. In addition to the allegations of the Petition for Administrative Hearing taken as true under 11 N.C.A.C. 1.0423(A), which are sufficient by themselves to warrant the Order entered herein, the undersigned Hearing Officer heard additional testimony and evidence offered by Agent Services which was also sufficient to support this Order.

5. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(1), one basis for the revocation of a license issued by the Department of Insurance is "[p]roviding materially incorrect, misleading, incomplete, or materially untrue information in the license application."

6. By failing to disclose the February 24, 2015 Utah administrative action and September 19, 2016 Indiana administrative action in his North Carolina license application and answering "no" when asked whether he had been involved in an administrative proceeding regarding a professional or occupational license, Respondent provided materially incorrect, misleading, incomplete, and materially untrue information in Respondent's North Carolina license application.

7. N.C. Gen. Stat. § 58-33-32(k) requires an insurance 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.”

8. Respondent failed to timely report the California, Louisiana, Delaware, Florida, Virginia, South Dakota, and Washington administrative actions taken against Respondent pursuant to the above statute.

9. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one basis for the revocation of a license issued by the Department of Insurance is violation of the insurance laws of North Carolina.

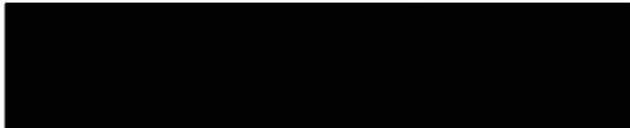
10. By failing to report the California, Louisiana, Delaware, Florida, Virginia, South Dakota, and Washington administrative actions within thirty days of their final disposition, Respondent committed multiple violations of N.C. Gen. Stat. § 58-33-32(k), which is a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

11. The Hearing Officer concludes that Respondent’s License should be revoked under N.C. Gen. Stat. § 58-33-46(a)(2).

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent’s non-resident North Carolina Insurance Producer’s license and Respondent’s non-resident North Carolina Medicare Supplement Long-Term Care license are hereby **REVOKED**.

This 30th day of June, 2021.



Sherri Hubbard, 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. § 1A-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 and requires service of the Petition on all parties. 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, and via first class U.S. mail to Respondent; and via State Courier to Attorney for Petitioner; addressed as follows:

Jacquan Marshay Waites-Ray
2265 S State St. Unit 373
South Salt Lake, UT 84115-2752
(Respondent)

Certified Mail Tracking #: 70200640000031856701

Nathan D. Childs
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 30th day of June, 2021.



Mary Faulkner
Paralegal
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Raleigh, NC 27699-1201