

BASED UPON careful consideration of the evidence, arguments presented at the hearing by ASD, and upon the entire record of the proceeding, the Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Service of the Petition and Notice of Administrative Hearing, providing Respondent with due notice of the November 17, 2023 hearing was perfected by United States Certified Mail on October 10, 2023, as evidenced by the Affidavit of Service, the United States Postal Service domestic return receipt, and the domestic signature card. *See* Petitioner's Exhibits 1, 2, 2A, and 4A (at p.2).

2. The North Carolina Department of Insurance ("NCDOI") is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers.

3. Respondent currently holds an active nonresident North Carolina Insurance Producer License with lines of authority for Accident & Health or Sickness, and Medicare Supplement/Long Term Care. Respondent's North Carolina Nonresident Producer License was first active in North Carolina on August 14, 2020. *See* Petitioner's Exhibits 3, 4 and 4A.

4. Ransome, Licensing/Complaint Analyst with ASD, testified that her job responsibilities include handling enforcement files which involves responding to complaints and handling Personalized Information Captured ("PIC") Alerts received through the NAIC system (which alerts the North Carolina Department of Insurance when other states have taken administrative actions against a North Carolina licensee). Ransome was assigned the PIC Alert relating to administrative action by the Insurance Department of the Commonwealth of Pennsylvania against Respondent. *See* Petitioner's Exhibits 5 and 7.

5. On or after July 22, 2022, as part of her enforcement investigation of the PIC Alert relating to Respondent, Ransome obtained a copy of the Administrative Action taken by the Commonwealth of Pennsylvania's Insurance Department ("Pennsylvania's First Administrative Action"), that was effective on June 30, 2022. This administrative action included a Consent Order Respondent agreed to. *See* Petitioner's Exhibit 7.

6. Ransome testified that Respondent failed to report Pennsylvania's First Administrative Action effective June 30, 2022 to the Commissioner, or to NIPR within thirty (30) days of the effective date, as required by N.C. Gen. Stat. § 58-33-32(k). *See* Petitioner's Exhibits 5, 6 and 7.

7. Ransome sent correspondence to Respondent's email addresses of record on July 22, 2022. This correspondence advised Respondent that Pennsylvania's First Administrative Action had not yet been reported to NCDOI or NIPR as required by N.C. Gen. Stat. § 58-33-32(k). Additionally, this correspondence requested that

Respondent provide a written response to such allegations, and provide documentation relating to the administrative action within ten (10) days from receipt. Ransome further testified that Respondent failed to respond to the July 22, 2022 correspondence. *See* Petitioner's Exhibit 3, 4 and 8.

8. Ransome sent another correspondence to Respondent's email addresses of record on August 2, 2022, noting that Respondent had failed to provide the documents and a written statement as requested in the July 22, 2022 correspondence and provided notice that unless the documentation was received within ten (10) days, ASD would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195. *See* Exhibits 8 and 9.

9. Ransome testified that while Respondent failed to respond to the August 2, 2022 correspondence, Respondent's employer, (by and through its agent, Stephanie Combs) Humana, did in fact respond to the correspondence sent to Respondent. Ms. Combs of Humana stated in an email sent to Ransome that: **"...[w]e are in the process of getting all the documents together to upload to NIPR and explanation (sic). Will have it to you by Friday..."** *See* Petitioner's Exhibit 10.

10. Pennsylvania's First Administrative Action was eventually uploaded to NIPR's Attachment Warehouse on August 12, 2022, but such notice was untimely because the notice was more than thirty (30) days from the Administrative Action's effective date of June 30, 2022. Respondent's reporting was thirteen (13) days late. *See* Petitioner's Exhibits 6 and 7.

11. Ransome sent another correspondence to Respondent's email addresses of record and to Respondent's residential mailing address of record *via* US Mail on August 17, 2022. This correspondence informed Respondent that Respondent appeared to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k) for the late reporting of Pennsylvania's First Administrative Action. This letter also informed Respondent that an Informal Conference was scheduled to take place on October 6, 2022 at 2:00pm a.m. to further discuss these allegations. *Id.* Ransome testified that she emailed Respondent's employer (Humana, by and through its agent Stephanie Combs) asking for assistance with communication with Respondent about the upcoming the Informal Conference that had been scheduled on October 6, 2022. Ms. Stephanie Combs of Humana replied in an email back to Ransome that stated: **"...Ms. Anderson is out on leave and I do not have a expectant date of return. Not sure if she has reached out but in the event she has not, can the be moved to a later date? ..."** *See* Respondent's Exhibits 3, 4, 11 and 12.

12. On or before September 12, 2022, and prior to the Informal Conference on October 6, 2022 with Respondent, Ransome was made aware of yet another PIC Alert affecting Respondent's license that was sent out by the NAIC PIC Alert system. This PIC Alert related to an Administrative Action involving Respondent's New York nonresident insurance producer license that the State of New York, Department of Financial Services, the entity that regulates insurance and agents in New York, had entered into NAIC's system. New York's Administrative Action concerning Respondent's New York insurance producer license was effective on September 7, 2022. *See* Petitioner's Exhibits 5 and 15.

13. Ransome testified that based on the email she received from Respondent's employer (*see* Petitioner's Exhibit 12) requesting more time, Ransome adjourned the telephonic Informal Conference from October 6, 2022 to November 16, 2022 at 11:30am. Thereafter, Ransome sent yet another correspondence dated October 6, 2022 to Respondent's email and her residential address of record notifying Respondent of the new date for the Informal Conference set for November 16, 2022 at 11:30am. *See* Petitioner's Exhibits 3, 4 and 13.

14. This October 6, 2022 correspondence informed Respondent that she appeared to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k) for the late reporting of Pennsylvania's First Administrative Action to NIPR. Ransome did not include mention of New York's Administrative Action in this October 6, 2022 correspondence since, at the time the letter was sent Respondent still had time to report New York's Administrative Action to NCDOI or NIPR to be in compliance with N. C. Gen. Stat. § 58-33-32(k). *See* Petitioner's Exhibit 13.

15. On November 15, 2022, as part of her investigation on New York's Administrative Action concerning Respondent (which was effective on September 7, 2022), Ransome requested a copy of New York's Administrative Action from an agent working for the New York Department of Financial Services. *See* Petitioner's Exhibit 14.

16. New York's Administrative Action was a Stipulation signed by Respondent on August 2, 2022 and effective on September 7, 2022. In the Stipulation, Respondent agreed to a monetary penalty of \$750.00 and admitted to providing materially incomplete information in Respondent's original application for licensure in New York submitted in August of 2020. The Stipulation also indicated that Respondent failed to disclose to New York that she had been the subject of an Administrative Action taken by the State of California's Department of Insurance back in 2013. A certified copy of New York's Administrative Action, the Stipulation, was received into evidence at the hearing. *See* Petitioner's Exhibit 15.

17. On November 16, 2022, Respondent attended the telephonic Informal Conference with Ransome and Ransome's supervisor, Nadine Scott. At the Informal Conference, the topics discussed with Respondent were:

- Respondent's late report of Pennsylvania's First Administrative Action in violation of N. C. Gen. Stat. § 58-33-32(k); and
- Respondent's failure to report New York's Administrative Action within 30 days of the effective date of September 7, 2023 in violation of N. C. Gen. Stat. § 58-33-32(k).

Ransome testified that during the Informal Conference, Respondent claimed that her employer had failed to report the administrative actions to NIPR.

18. Prior to the hearing date on November 16, 2023, Ransome was made aware of another PIC Alert relating to Respondent's insurance license in Pennsylvania. This was Pennsylvania's Second Administrative Action. See Petitioner's Exhibit 16.

19. In continuing her investigation, on or about September 21, 2023, Ransome requested via email that Pennsylvania's Insurance Department send to her a copy of Pennsylvania's Second Administrative Action. See Petitioner's Exhibit 17.

20. Pennsylvania's Second Administrative Action revoked Respondent's Pennsylvania nonresident insurance producer license. See Petitioner's Exhibit 18.

21. Ransome testified that ASD did not send letters to Respondent about Pennsylvania's Second Administrative Action or have another Informal Conference with Respondent to discuss Respondent's failure to report Pennsylvania's Second Administrative action since ASD had in the past advised Respondent (by way of emails, letters and through the telephone discussion at the Informal Conference on November 16, 2022) of Respondent's duty to report Administrative Actions to the North Carolina Department of Insurance or NIPR within 30 days of their respective effective dates pursuant to N. C. Gen. Stat. § 58-33-32(k). See Petitioner's Exhibits 8, 9, 11, and 13.

22. Ransome testified that as of the date of the hearing, the Respondent had still not reported either New York's Administrative Action or the Pennsylvania's Second Administrative Actions to either the North Carolina Department of Insurance or NIPR.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner. 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 and Petition was properly served on Respondent pursuant to N.C. Stat. § 58-2-69(b) and Rule 4 of the North Carolina Rules of Civil Procedure.

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

4. N.C. Gen. Stat. § 58-33-32(k) requires an insurance producer to report to the Commissioner “any administrative action” taken against the producer by another state “within 30 days after the final disposition of the matter.” North Carolina General Statutes Section 58-33-32(k) further specifies that 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.”

5. Respondent failed to report New York’s Administrative Action taken by the New York Division of Financial Services (effective as of September 7, 2022) to the Commissioner or to NIPR within thirty (30) days of the action’s final disposition, as required by N.C. Gen. Stat. § 58-33-32(k).

6. By failing to report New York’s Administrative Action to the Commissioner or NIPR within thirty (30) days of the final disposition, Respondent violated a North Carolina insurance law (N.C. Gen. Stat. § 58-33-32(k)) per the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

7. Respondent was late in reporting Pennsylvania’s First Administrative Action to NIPR. While the reporting of this administrative action was eventually reported to NIPR 13 days after requirement it was done so by Respondent’s employer.

8. By failing to timely report Pennsylvania’s First Administrative Action to either the Commissioner or NIPR within thirty (30) days of the final disposition on June 30, 2022, Respondent violated a North Carolina insurance law (N. C. Gen. Stat. § 58-33-32(k)) per the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

9. N.C. Gen. Stat. § 58-33-32(k) requires that “[a] producer shall report...” administrative actions. While reporting to NIPR may be done by an employer on behalf of a licensee, the statute puts the onus on the producer who is individually licensed here in North Carolina to timely report.

10. Respondent also failed to report Pennsylvania's Second Administrative Action, within 30 days of the effective date of August 21, 2023.

11. By failing to report Pennsylvania's Second Administrative Action within thirty (30) days of the final disposition, Respondent violated a North Carolina insurance law (N.C. Gen. Stat. § 58-33-32(k)) per the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

12. N.C. Gen. Stat. § 58-44-46(a)(9) authorizes the Commissioner to place on probation, suspend, revoke, or refuse to renew any license if a licensee has an insurance producer license or its equivalent denied, suspended or revoked in any other jurisdiction.

13. Respondent's three (3) violations of N.C. Gen. Stat. § 58-33-32(k) provide the statutory authority for placement on probation, suspension, revocation, or refusal to renew a license and for the order of payment of a monetary penalty pursuant to N.C. Gen. Stat. § 58-2-70.

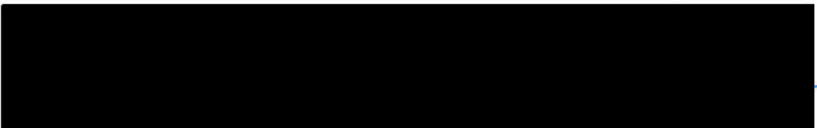
BASED UPON the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ORDERED that Respondent's non-resident North Carolina Insurance Producer license is hereby REVOKED effective as of the date of the signing of this Order.

IT IS FURTHER ORDERED that service of this Order and Final Agency Decision on Respondent shall be made by designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt.

This 13th day of February, 2024.


Alisha Benjamin
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 1.0413 and N.C.G.S. § 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

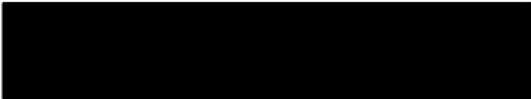
I **HEREBY CERTIFY** that I have this day served the foregoing **ORDER and FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; and via first class U.S. Mail to the licensee at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b); and via State Courier to Attorney for Petitioner addressed as follows:

Tinesha Anderson
5338 W. Thresher Way
Laveen, Arizona 85339
(Respondent)

Certified Mail Tracking Number: 70222410000096625482

Gina M. Von Oehsen Cleary
Special Deputy Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 13th day of February, 2024.


Mary Faulkner
Paralegal III
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201