

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA) COUNTY OF WAKE))) IN THE MATTER OF:)) THE LICENSURE OF) DAVID CORTEZ) (NPN #19908568))) Respondent.)))	BEFORE THE COMMISSIONER OF INSURANCE ORDER AND <u>FINAL AGENCY DECISION</u> Docket No. 2242
---	---	---

THIS MATTER was heard on December 9, 2024, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance (“Commissioner”) pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in Hearing Room of the North Carolina Department of Insurance, located in Wake County at 3200 Beechleaf Court, Raleigh, North Carolina.

Petitioner, Agent Services Division of the North Carolina Department of Insurance (“Petitioner” or “Agent Services”), was present and represented by Assistant Attorney General, Dilcy Burton. Respondent, David Cortez (“Respondent”), did not appear and was not represented by counsel at the hearing.

Tommy Walls, Senior Complaint Analyst with Agent Services Division, appeared and testified for the Petitioner. Petitioner’s Exhibits 1 through 12, which were admitted into evidence, excluding redactions to Petitioner Exhibits 3, 4, 5 and 12, removing personal identification information and information no relevant to the hearing.

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

FINDINGS OF FACT

1. The Notice of Administrative Hearing and Petition were properly served on Respondent by depositing with United States Postal Services, for mailing by certified mail, return receipt requested and first-class mail to Respondent’s address of record. The certified U.S. mail, return receipt requested, was delivered as evidenced by receipt of delivery. The first-class U.S. mail was not returned. See Pet’r Exs. 1 and 2.

1. The North Carolina Department of Insurance (“Department”) is a state agency having the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance producers, in accordance with Chapter 58 of the North Carolina General Statutes. The Agent Services Division is a division of the Department.

2. Respondent is a resident of Texas. *See* Pet’r Ex. 3

3. Respondent holds an active non-resident insurance producer license issued by the Department with lines of authority in Property and Casualty (“License”). Respondent’s license was issued National Producer Number 19908568 and was first active on February 20, 2023. *See* Pet’r Exs. 3 and 4.

4. Effective March 3, 2023, the Kansas Insurance Department took administrative action against Respondent by issuing a license denial on the grounds that Respondent provided incorrect and misleading information when the license application by failing to disclose criminal convictions. *See* Pet’r Ex. 7

5. Effective October 31, 2023, the Wisconsin Office of the Commissioner of Insurance took administrative action against Respondent by issuing a Notice of Forfeiture Assessment which fined Respondent in the amount of \$500.00. Wisconsin entered a monetary penalty finding that Respondent failed to report a prior administrative action from the state of Missouri in July 13, 2023. *See* Pet’r Ex. 8.

6. Petitioner was made aware of the Kansas and Wisconsin regulatory actions against Respondent via a “PIC alert”, which is an automatic notification system through the National Association of Insurance Commissioners (“NAIC”). Petitioner receives PIC alerts once another state takes regulatory action against a licensee and subsequently enters the regulatory action into the NAIC database which appears on a “RIRS report” in the NAIC system. The RIRS report admitted into evidence showed that both Kansas took regulatory action against Respondent on March 3, 2023, and the action was later entered into the NAIC database on January 24, 2024. It further showed that Wisconsin took regulatory action against Respondent on October 31, 2023, and entered the action into the NAIC database on November 3, 2023. *See* Pet’r’s Ex. 5.

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 thirty (30) days after the final disposition of the matter. The report “shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the actions.”

8. A licensee may report an administrative action taken against their

license to the Department by either uploading a copy of the administrative action to the National Insurance Producer Registry (“NIPR”) Attachment Warehouse or report the administrative action directly to Petitioner via fax, mail or email. Respondent did not report either the Kansas or Wisconsin administrative actions directly to Petitioner within thirty days after final disposition.

9. Documentary evidence showed that although Respondent uploaded unrelated documents to the NIPR Attachment Warehouse on February 8, 2023 and June 5, 2023, Respondent never reported the Kansas or Wisconsin administrative actions by uploading copies of the actions to NIPR Attachment Warehouse. *See* Pet’r’s Ex. 6.

10. On November 8, 2023, Agent Services sent written correspondence to Respondent’s electronic and physical addresses of record notifying Respondent of his duty to report the Wisconsin regulatory action (effective October 31, 2023). At the time of notice, Respondent still had time to report the action to the Department in compliance with N.C. Gen. Stat. § 58-33-32(k). *See* Pet’r’s Ex. 9.

11. Respondent sent an email to Agent Services on November 10, 2023, indicating receipt of Petitioner’s letter and providing that in lieu of paying the \$500.00 fine imposed against him from the state of Missouri, Respondent chose to lose appointments from that state. Further, Respondent inquired what other information was needed but failed to provide copies of the Wisconsin administrative action as the November 8, 2023 letter instructed. *See* Pet’r’s Ex. 9.

12. On January 24, 2024, Agent Services sent a second written correspondence to Respondent’s electronic and physical addresses of record, notifying Respondent of the duty to report the Wisconsin regulatory action (effective October 31, 2023) and the Kansas regulatory action (effective March 3, 2023) which had just been entered into the NAIC database January 24, 2024. *See* Pet’r’s Ex. 10. Respondent did not provide any response to Petitioner as requested.

13. On January 31, 2024, Agent Services sent written correspondence to Respondent’s email addresses of record and by US mail, scheduling a telephonic informal conference on March 14, 2024, at 10:00AM at the home and work phone numbers Respondent provided the Department. The letter detailed the violations alleged and the intent to discuss Respondent’s failure to report the previous Wisconsin and Kansas actions. *See* Pet’r’s Ex. 11. Respondent did not respond to Petitioner at this time.

14. On March 14, 2024, at 10:00AM, the informal conference was attempted by Agent Services making multiple calls to Respondent at the numbers provided. Respondent did not answer, call back or participate in meeting with Petitioner to resolve the matter. *See* Pet’r Exs. 3-4 and 11-12.

15. Petitioner proceeded to administrative hearing, as sufficient grounds exist for revocation of Respondent's insurance producer license pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2), showing that Respondent did not notify the Commissioner of either the Wisconsin and Kansas administrative actions within thirty (30) days of the final disposition of the matters and failed to communicate with the Department after multiple inquiries were made.

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 pursuant to N.C. Gen. Stat. § 58-2-69(b) and Rule 4 of the North Carolina Rules of Civil Procedure. *See* Pet'r's Exs. 1 and 2.

3. 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 or by another governmental agency in this State within thirty (30) days after the final disposition of the matter. 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."

4. Respondent was required to report the Wisconsin (eff. September 29, 2023) and Kansas (eff. March 3, 2023) administrative actions, within thirty (30) days of final disposition pursuant to N.C. Gen. Stat. § 58-33-32(k). *See* Pet'r Exs. 7 and 8.

5. Respondent's failure to report and provide copies of the administrative actions from Wisconsin and Kansas to the Commissioner within thirty (30) days of the effective date of the aforementioned actions, are a violation of N.C. Gen. Stat. § 58-33-32(k). *See* Pet'r Exs. 7-10.

6. N.C. Gen. Stat. § 58-33-46(a)(2) allows the Commissioner to place on probation, suspend, revoke, or refuse to renew any license issued under this Article for a licensee violating any insurance law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator or violating any rule of FINRA.

7. The undersigned Hearing Officer gives weight to the evidence that Respondent failed to respond to numerous attempts by Petitioner to make contact by email, first class US Postal Service mail, and telephone to all contacts provided by

Respondent to Petitioner. Respondent has therefore given no indication of interest in retaining the North Carolina insurance license issued by the Department.

8. Respondent's violations of N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2) provide the statutory authority for revoking Respondent's North Carolina insurance producer license.

Based upon the foregoing Findings of Fact and Conclusions of Law the following order is rendered.

ORDER

It is ORDERED that Respondent's nonresident insurance producer license issued by the North Carolina Department of Insurance be **REVOKED** effective as of the date of this Order.

This 30 day of June, 2025.


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 the 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: Amy Funderburk, General Counsel, 1201 Mail Service Center, Raleigh, NC 27699-1201.

CERTIFICATE OF SERVICE

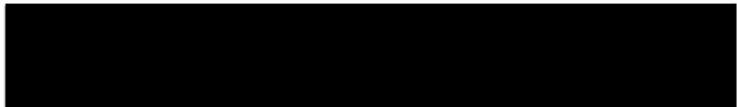
I HEREBY CERTIFY that I have this day served the foregoing **ORDER and FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; and via first class U.S. Mail to the licensee at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b);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

David Cortez
12326 Hawthorne Hill Circle
Humble, Texas 77346-4562
(Respondent)

Certified Mail Tracking Number: 7022 0410 0003 1024 5225

Dilcy Burton
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001

This the 1st day of July, 2025



Raheema I. Moore
Clerk of Court for Administrative Hearings
Paralegal III
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201