

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
MARTIN CRUZ-GONZALES
(NPN # 20061990)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2168

THIS MATTER was heard on February 21, 2024, 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 (hereinafter "Department"), Agent Services Division (hereinafter "Petitioner" or "ASD"). Respondent Martin Cruz-Gonzales (hereinafter, "Respondent") did not appear and was not represented by counsel at the hearing.

Petitioner moved, pursuant to 11 NCAC 01.0423(a), for the imposition of sanctions due to Respondent's failure to appear at the hearing, which was DENIED. The undersigned hearing officer proceeded to accept and consider testimony and evidence in support of the Petition at the hearing.

Nadine Scott, Complaint Section Supervisor with the Agent Services Division of the North Carolina Department of Insurance, testified for the Petitioner. Petitioner's Exhibits 1-10, including all subparts, were admitted into evidence.

BASED UPON the careful consideration of the allegations set forth in the Notice of Administrative Hearing and Petition 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. Service of the Notice of Administrative Hearing was perfected on January 22, 2024 via certified mail, giving Respondent proper notice, as evidenced by the Affidavit of Service, the USPS domestic return receipt and signature card. *See* Pet'r Exs. 1 & 2.

2. The North Carolina Department of Insurance is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of insurance laws of this State and for regulating and licensing insurance agents.

3. Respondent is a resident of Florida and holds a Non-Resident Producer License, National Producer Number 20061990, with lines of authority in Accident & Health or Sickness, Life, and Medicare Supplement/Long Term Care, first active on or about September 19, 2021. *See* Pet'r Exs. 3 & 4.

4. On or about December 21, 2022, Respondent received an adverse administrative action in the form of a revocation from the Wisconsin Office of the Commissioner of Insurance (hereinafter, "Wisconsin Administrative Action") for failing to pay taxes in the state of Wisconsin in violation of ss.73.0301 (2)(b) 1 a. and 628.10(2)(cm). *See* Pet'r Exs. 5 & 10.

5. ASD Complaint Section Supervisor Nadine Scott testified that former Complaint Analyst Gwen Harris was initially assigned to this matter due to the "PIC Alert" notifying the Department that Respondent had received an adverse administrative action in Wisconsin. *See* Pet'r Ex. 5. Ms. Scott explained that a "PIC Alert" results when a state's insurance regulator enters information into the NAIC reporting system that a licensee has received an administrative action in that state.

6. Ms. Scott explained that she was Ms. Harris' supervisor before Ms. Harris resigned from her employment with the Department. Ms. Scott testified that she reviewed Ms. Harris' file in this matter, most recently reviewing it on February 20, 2024, and that Ms. Scott had also participated in the informal conference attempt with Respondent on May 3, 2024. *See* Pet'r Ex. 9.

7. Ms. Scott testified that a licensee is required to report administrative actions they receive in other states to the Department within thirty (30) days of the effective date of those actions pursuant to N.C. Gen. Stat. § 58-33-32(k), and that they may do so by directly reporting to the Department or by uploading the document to the NIPR Attachment Warehouse. Ms. Scott testified that, upon assignment of a file resulting from a PIC Alert, the first thing that an ASD Complaint Analyst does is to check the Department's records and the NIPR Attachment Warehouse to see if the administrative action noted on the PIC alert has been reported.

8. The “RIRS Report” introduced into evidence shows that Respondent received an adverse administrative action in the form of a license revocation in Wisconsin effective December 12, 2022, for failure to pay taxes. A note entered on the “Enforcement Summary” on January 12, 2023 by Ms. Harris stated that Respondent had not yet reported the Wisconsin administrative action but still had time to do so in order to meet the reporting requirements of N.C. Gen. Stat. § 58-33-32(k). *See* Pet’r Ex. 9.

9. On January 12, 2023, ASD sent an email to Respondent’s email address of record, informing Respondent of the requirement to report the Wisconsin administrative action and noting that he must report it by January 21, 2023. This email, which noted the statutory reporting requirements for licensees pursuant to N.C. Gen. Stat. §§ 58-2-185 and 58-2-195, requested that Respondent provide a written response and documentation concerning the Wisconsin Administrative Action within ten (10) days. *See* Pet’r Ex. 7A.

10. A note entered into the “Enforcement Summary” by Ms. Harris on January 12, 2023 indicates that Respondent called her and stated that his taxes had been paid and his Wisconsin insurance license reinstated. Ms. Harris requested that he provide a copy of the regulatory action and proof that his taxes were paid, and his license reinstated. Respondent told Ms. Harris he would get this documentation to her by January 13, 2023 at the latest. Respondent did not, however, subsequently provide any of the requested documentation. *See* Pet’r Ex. 9.

11. On February 14, 2023, ASD sent another email to Respondent’s e-mail address of record, again requesting documentation. At this point, Respondent was in violation of N.C. Gen. Stat. § 58-33-32(k), as more than thirty (30) days had passed since the effective date of the December 12, 2022 Wisconsin Administrative Action. Respondent did not respond to this request. *See* Pet’r Exs. 7B & 9.

12. On March 10, 2023, ASD sent a notice of an informal conference to Respondent by first class U.S. Mail and by e-mail. The informal conference notice informed Respondent that the conference was to take place by phone on May 3, 2023 at 2 pm and gave Respondent notice of the phone number of record where he would be called. The informal conference notice also informed Respondent that if he failed to appear, the Department would institute formal proceedings against his license pursuant to Article 3A of Chapter 150B of the North Carolina General Statutes. *See* Pet’r Ex. 7C.

13. A note entered into the Enforcement Summary on March 16, 2023, indicates that on this date Respondent called Ms. Harris and asked her what he needed to send her. Ms. Harris informed him that he needed to send a copy of the Wisconsin regulatory action as well as documentation that he paid his taxes and that his licenses were reinstated. Ms. Harris also provided Respondent with the

Wisconsin insurance regulator's e-mail address and phone number to help him obtain a copy of the regulatory action. *See* Pet'r Ex. 9. Respondent, however, did not provide any of this documentation.

14. On May 3, 2023, Ms. Harris and Ms. Scott attempted to hold the informal conference with Respondent. He did not answer the phone. Ms. Harris and Ms. Scott left a voicemail requesting that he call them back, but he never did so. *See* Pet'r Exs. 8 & 9.

15. On May 11, 2023, Ms. Harris sent an email to Respondent which noted that he had previously indicated that he would send a copy of the Wisconsin regulatory action and other requested documentation, but he never did so. Ms. Harris again requested that he send the documentation within ten days and noted that this would be ASD's last request. Ms. Harris also informed Respondent that if he did not respond, this matter would be referred for an administrative hearing. *See* Pet'r Ex. 7D.

16. Ms. Scott noted that, based upon a review of the "NIPR Attachment Warehouse" and the Department's records, Respondent has not reported the Wisconsin administrative action or provided any documentation to the Department regarding the Wisconsin administrative action. *See* Pet'r Exs. 6 & 9. Further, following the phone call from Respondent on March 16, 2023, Respondent has had no further contact with the Department. *See* Pet'r Ex. 9

17. A review of the Wisconsin Administrative Action shows that Respondent's insurance licenses were revoked for failure to pay delinquent taxes pursuant to s. 628.10(2)(cm), Wis. Stat. by action dated November 21, 2022 with an effective date for the revocation of December 12, 2022. *See* Pet'r Ex. 10.

18. Ms. Scott testified that Respondent at no time ever reported the Wisconsin Administrative Action to the North Carolina Commissioner of Insurance ("Commissioner") within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k), nor did he provide any proof that he had paid his taxes, and that his Wisconsin Insurance License had been reinstated. Additionally, the Wisconsin Administrative Action still appeared on the RIRS report retrieved as recently as January 18, 2024. *See* Pet'r Ex. 5.

19. Ms. Scott testified that, in her opinion, Respondent had not shown a continuing interest in retaining his North Carolina insurance license, as shown by his failure to provide any of the requested documentation, his failure to attend the informal conference, and the fact that he has had no communication with the Department concerning this matter since March 16, 2023.

CONCLUSIONS OF LAW

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

2. The Notice of Administrative Hearing was properly served on Respondent pursuant to N.C. Gen. Stat. §§ 58-2-69(d) and 58-2-69(e) and Rule 4 of the North Carolina Rules of Civil Procedure.

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.

4. The evidence presented at the hearing supports the allegations of the Notice and Petition as to Respondent's failure to timely report the Wisconsin Administrative Action. Respondent was required to report the December 21, 2023 Wisconsin Administrative Action within thirty (30) days of the effective date of that action pursuant to N.C. Gen. Stat. § 58-33-32(k). Respondent never reported that administrative action, in violation of N.C. Gen. Stat. § 58-33-32(k).

5. ASD provided Respondent with numerous opportunities to report the Wisconsin Administrative Action and other requested documentation. Additionally, ASD provided Respondent with contact information for the Wisconsin insurance regulatory to assist him in obtaining the requested documentation. Despite this, Respondent never reported the Wisconsin Administrative Action or provide the requested documents to ASD.

6. N.C. Gen. Stat. § 58-33-46(a)(2) states that the Commissioner may place on probation, suspend, or revoke the license of a licensee who has violated any insurance law of this or any other state, violated any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violated any rule of FINRA.

7. Respondent's license is subject to suspension or revocation under N.C. Gen. Stat. § 58-33-46(a)(2) for violating the insurance laws in Wisconsin pursuant to ss.73.0301 (2)(b) 1 a. and 628.10(2)(cm) which states that the Commissioner is required to revoke the insurance licenses of those certified as owing delinquent Wisconsin taxes.

8. Respondent's license is also subject to suspension or revocation for his failure to report the Wisconsin Administrative Action to the Department in violation of N.C. Gen. Stat. § 58-33-32(k).

9. Respondent has not shown a continuing interest in retaining his North Carolina insurance licenses, as evidenced by his failure to report the Wisconsin Administrative Action, his failure to provide the documentation requested by ASD, his failure to attend the informal conference, and his failure to communicate with the Department.

Based on the foregoing Findings of Fact 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 12th day of April, 2024.

A large black rectangular redaction box covering the signature of the Hearing Officer.

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 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: 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; via first class U.S. mail to the licensee, at the addresses 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:

Martin Cruz-Gonzales
9270 E. Bay Harbor Dr., Apt. 6A
Bay Harbor Islands, FL 33152
(Respondent)


Certified Mail Tracking Number: 70222410000096625635

Martin Cruz-Gonzales
7440 Woodland Dr.
Indianapolis, IN 46278-1720
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Rebecca E. Lem
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N.C. Department of Justice
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(Attorney for Petitioner)

This the 12th day of April, 2024.



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