

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
ESDRAS DOMENECH
(NPN #18152451)

Respondent.

))
))
) ORDER AND FINAL AGENCY
) DECISION
)
)

Docket Number: 2089

This matter was heard on December 7, 2022, by the undersigned Hearing Officer, as designated by the North Carolina Commissioner of Insurance ("Commissioner") 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. North Carolina Assistant Attorney General Terence D. Friedman represented the Agent Services Division ("Petitioner" or "ASD") of the North Carolina Department of Insurance ("Department"). Respondent Esdras Domenech ("Respondent"), proceeding *pro se*, did not appear.

Nadine B. Scott testified for the Petitioner. Petitioner introduced Exhibits 1-9 into evidence.

Due to the Respondent's failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and attached Petition for Administrative Hearing may be taken as true or deemed to be proved without further evidence.

After careful consideration, and based on the allegations set forth in the Notice of Hearing 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. Respondent's North Carolina non-resident insurance producer license ("License") has been active since 2018.

2. On December 16, 2019, Respondent pleaded guilty in the Court of Common Pleas of Dauphin County, PA to one misdemeanor count of Unlawful Dissemination of an Intimate Image in *Commonwealth v. Esdras Domenech*, CP-22-CR-0006383-2018 (Dauphin Co., PA) ("Pennsylvania Conviction").

3. Effective on or about January 4, 2021, the New York Department of Financial Services denied Respondent's application to renew his insurance producer's license in that state ("New York Action"). Respondent has never reported the New York Action to the Department.

4. On September 15, 2021, Petitioner informed Respondent that he had failed to report the New York Action to the Commissioner and was required to do so.

5. On September 28, 2021, Petitioner informed Respondent that he had failed to timely report the Pennsylvania conviction and to report the New York Action to the Commissioner and was required to do so.

6. On October 12, 2021, Petitioner informed Respondent that it would hold a conference with him on November 22, 2021 about his failure to timely report the Pennsylvania Conviction and to report the New York Action to the Commissioner. Respondent attended that conference, after which he indicated he wanted to voluntarily surrender his North Carolina conference but never ultimately did so.

7. As of the day of the hearing in this matter, Respondent had never reported the New York Action to the Commissioner.

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, and he has jurisdiction over the parties and the subject matter.

2. Proper notice to Respondent has been given in this matter.

3. N.C. Gen. Stat. § 58-33-32 states in relevant part:

...

(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. . . . 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.

(l) Within 30 days after the initial pretrial hearing date or similar proceeding, a producer shall report to the Commissioner any criminal prosecution of the producer. The report shall include a copy of the initial complaint filed, the order resulting from the hearing or similar proceeding, and any other information or documents filed in the proceeding necessary to describe the prosecution.

...

4. The New York Action is an administrative action taken against Respondent within the meaning of N.C. Gen. Stat. § 58-33-32(k).

5. Respondent did not timely report the Pennsylvania Conviction or report the New York Action to the Department.


6. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one of the causes for which the Commissioner may revoke a license is for violating the insurance law of North Carolina.

7. Respondent violated the insurance law of North Carolina within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2) by failing to timely report the Pennsylvania Conviction and to report the New York Action within 30 days of the effective date of the respective Conviction and Action, as required by N.C. Gen. Stat. § 58-33-32(k) and -32(l).

ORDER

It is ordered that Respondent's license issued by the North Carolina Department of Insurance is hereby REVOKED effective as of the date of the signing of this order.

This the 12th day of January, 2023.



A. John Hoomani
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: 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; 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:

ESDRAS DOMENECH
215 Francis Cadden Pkwy, Apt. 202
Harrisburg, PA 17111
(Respondent)

Certified Mail Tracking Number: 70200640000031858101

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

This the 12th day of January, 2023.


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