

BASED UPON careful consideration of the evidence, arguments presented at the hearing by ASD, and 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 North Carolina Department of Insurance (“NCDOI”) is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for the enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers.

2. Subsections (b), (d), and (e) of N.C. Gen. Stat. § 58-2-69 provide authority to the North Carolina Commissioner of Insurance (“Commissioner”) to give notice to any licensee by sending such notices by first-class mail at the address or addresses that a licensee provides to the Commissioner pursuant to N. C. Gen. Stat. § 58-2-69(b). Respondent provided the following address to the Commissioner (*see* Pet’r’s Exs. 1, 5, and 6:

1000 SW 65TH STREET
FORT LAUDERDALE, FL 33309

320 NE 58TH STREET, UNIT B
OAKLAND PARK, FL 33334

261 N. UNIVERSITY DRIVE
PLANTATION, FL 33324

5478 NW 90TH TERRACE
SUNRISE, FL 33351

3. The Affidavit of Service indicates that copies of the Notice of Hearing and Petition were deposited in first-class mail addressed to Respondent as indicated at 1000 SW 65TH Street, Fort Lauderdale, FL 33309 on October 31, 2024. Service was unsuccessful to this address. Petitioner moved to continue the case in order to effectuate service. On November 21, 2024, the undersigned issued an Order continuing the case to allow Petitioner additional time to effectuate service. *See* Pet’r’s Exs. 1 and 2.

4. On February 5, 2025, the undersigned issued a Scheduling Order which set this matter for hearing on March 3, 2025 at 11:00am. According to the Affidavit of Service, copies of the Notice of Hearing and Petition, Petitioner’s Motion to Continue, Order Granting Petitioner’s Motion to Continue, and Scheduling Orders were deposited on February 12, 2025, with a designated delivery service, FedEx - Priority Overnight, to the Respondent at the addresses contained in the licensing records of ASD. According to the Affidavit of Service, copies of the Notice of Hearing and Petition, Petitioner’s Motion to Continue, Order Granting Petitioner’s Motion to Continue, and Scheduling Orders were successfully delivered to Respondent on February 13, 2025 at the following addresses:

320 NE 58TH STREET, UNIT B
OAKLAND PARK, FL 33334

261 N. UNIVERSITY DRIVE
PLANTATION, FL 33324

5478 NW 90TH TERRACE
SUNRISE, FL 33351

See Pet'r's Exs. 3 and 4

5. On January 23, 2024, Respondent submitted an application to the Kansas Insurance Department ("Kansas") seeking a nonresident insurance producer license in that state. Respondent responded "No" when questioned on his application regarding whether he had a prior felony conviction. Respondent did in fact have a 2005 felony conviction for habitual driving while revoked from the State of Florida. Respondent later submitted a correction disclosing the conviction. Respondent was also questioned on his application whether he had ever been a party in an administrative proceeding regarding a professional or occupational license. Respondent answered "No" to this question despite having been subject to a Consent Order and Licensure Suspension from the Florida Department of Financial Services. *See* Pet'r's Ex. 9.

6. Respondent was granted a resident Insurance Producer License ("License") in North Carolina on January 26, 2024. Respondent's License remains active, and he holds lines of authority in accident and health or sickness. *See* Pet'r's Ex. 5.

7. On February 13, 2024, Kansas issued a Decision on License Application. *See* Pet'r's Ex. 9. Respondent Kansas denied Respondent's application for a nonresident insurance producer license due to him providing incorrect, misleading, incomplete, or untrue information in his license application, pursuant to K.S.A. 40-4909. *Id.*

8. Miller is a Complaint Analyst with ASD and, as part of his job responsibilities, handles enforcement files for ASD. Enforcement files include responding to complaints and handling Personalized Information Capture System's Alerts ("PIC Alerts") received through the NAIC system. PIC Alerts are sent to NCDOT by NAIC if another state takes administrative action against a North Carolina licensee and enters the information into the system. Miller was assigned the PIC Alert relating to Respondent after Kansas' Department of Insurance entered information on May 7, 2024, into the NAIC system regarding an administrative action taken against Respondent. *See* Pet'r's Ex. 7. Miller handled the investigation

of Petitioner's enforcement file from initial assignment up until the date of the hearing.

9. Miller, during his investigation of the enforcement file relating to Kansas' Decision on License Application, reviewed various documents relating to Respondent. These documents included Respondent's state-based system licensee summaries (*see* Pet'r's Ex. 5), Respondent's NAIC state licensing reports from the Producer Database (*see* Pet'r's Ex. 6), Respondent's reports listed on the Regulatory Information Retrieval System ("RIRS") (*see* Pet'r's Ex. 7), and Respondent's NIPR attachment warehouse (*see* Pet'r's Ex. 8).

10. Miller, as part of his enforcement investigation relating to Respondent, obtained a copy of Kansas' administrative action. The administrative action from the Kansas was a Decision on License Application that became effective on February 13, 2024. *See* Pet'r's Ex. 9. Miller determined that this administrative action had not been reported to the Commissioner within 30 days of its final disposition as required by N.C. Gen. Stat. § 58-33-32(k).

11. Miller contacted Respondent on May 9, 2024 by sending correspondence to his e-mail address, jefermin@icloud.com, of record. *See* Pet'r's Ex. 5 and 10. The e-mail advised Respondent that NCDOT had been made aware of an Administrative action taken by the Kansas Insurance Department with an effective date of February 13, 2024. The e-mail informed Respondent that action was unreported, and that more than thirty days had passed since the effective date. Mr. Miller requested from Respondent a written response and documentation of Kansas' Administrative action taken against his license within ten (10) days of May 9, 2024. Respondent did not respond to Miller's requests for documents and information. *See* Pet'r's Ex. 10.

12. On May 28, 2024, Miller sent follow-up correspondence to Respondent's email address of record. Miller requested a response to the correspondence previously sent on May 9, 2024. The May 28 correspondence notified Respondent that the Petitioner may proceed with administrative action if he did not respond within ten (10) days. *See* Pet'r's Ex. 11.

13. On June 25, 2024, Miller sent correspondence to Respondent's e-mail address and mailed a copy of this correspondence to his current mailing address of record, 5478 NW 90th Terrace, Sunrise, FL 33351. The letter informed Respondent that, because he failed to report Kansas' administrative action to the Commissioner, he appeared to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k). This June 25, 2024 correspondence also informed Respondent that a Telephonic Informal Conference had been scheduled for July 29, 2024 at 2:00 p.m., to discuss these allegations further. Mr. Miller stated in the correspondence that Respondent would be contacted at (954) 681-3995, his phone number reported to the

Commissioner, for the conference. *See* Pet'r's Exs. 5, 12-13.

14. Miller attempted to hold the Informal Conference with Respondent and his supervisor, Nadine Scott, on July 29, 2024, at 2:00 p.m. to further discuss the late reporting of Kansas' Decision on License Application. Miller contacted Respondent at the phone number listed on the conference notice, which he had provided to the Commissioner, (954) 681-3995. *See* Pet'r's Exs. 5, and 12-13. Respondent did not answer multiple attempts by Miller to reach him for the telephonic conference.

15. On July 29, 2024, Mr. Miller sent a proceed to hearing letter by U.S. Mail and e-mail to Respondent after he failed to appear for the informal conference. The letter notified Respondent that he had failed to respond to multiple inquiries from ASD, that his administrative action from Kansas remained unreported, and that ASD alleged he was in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k). *See* Pet'r's Ex. 14.

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. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Despite proper service of the Notice of Administrative Hearing and the Petition for Administrative Hearing upon Respondent in this matter pursuant to N. C. Gen. Stat. § 58-2-69 (b), (d), and (e), Respondent failed to attend the March 3, 2025, hearing. *See* Pet'r's Exs. 1 and 4.

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 "within 30 days after the final disposition of the matter."

4. Respondent holds a nonresident insurance producer license issued by the Commissioner. *See* Pet'r's Ex. 5.

5. Kansas issued a Decision on License Application, which denied Respondent's application for a nonresident insurance producer license, effective February 13, 2024. This is an administrative action, as contemplated by N.C. Gen. Stat. § 58-33-32(k). *See* Pet'r's Exs. 7 and 9.

6. Respondent failed to report the Kansas Administrative action as required by N.C. Gen. Stat. § 58-33-32(k).

7. N.C. Gen. Stat. § 58-33-46(a) provides grounds the Commissioner may “place on probation, suspend, revoke, or refuse to renew” an insurance producer’s license.

8. Among other things, N.C. Gen. Stat. § 58-33-46(a)(2) authorizes disciplinary action if a licensee violates “any insurance law of this or any other state.”

9. By failing to report the Kansas administrative action within thirty (30) days of its final disposition, Respondent violated 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).

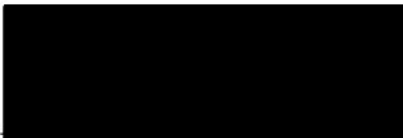
10. Based on the evidence received, and the applicable law, the undersigned Hearing Officer concludes that Respondent’s North Carolina non-resident insurance producer license should be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) for his violation of N.C. Gen. Stat. § 58-33-32(k).

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

ORDER

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

This 14th day of May, 2025.



Terrence Friedman
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: 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 Respondent at the address the licensee provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b), (d) and (e), and via State Courier to Attorney for Petitioner addressed as follows:

JUAN FERMIN
5478 NW 90TH TERRACE
SUNRISE, FL 33351
(Respondent)

Certified Mail Tracking Number: 9589 0710 5270 1723 5214 59

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

This the 14th day of May, 2025.



Raheema I. Moore
Clerk of Court for Administrative Hearings
Paralegal III
N.C. Department of Insurance
General Counsel's Office
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