

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
EUGENE MICHAEL GARCIA
(NPN # 14339137)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2181

This matter was heard on June 5, 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 EUGENE MICHAEL GARCIA (hereinafter, "Respondent") did not appear.

Roy Foster, Insurance Regulatory Analyst Manager with the Agent Services Division (ASD) of the North Carolina Department of Insurance, testified for the Petitioner. Petitioner introduced Exhibits 1-8 and 11 into evidence.

Based on the allegations set forth in the Notice of Hearing and attached 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. The Notice of Administrative Hearing was properly served on Petitioner 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. *See* Pet'r Ex. 1 and 2.

2. The Notice of Administrative Hearing and attached Petition and the Affidavit of Service were admitted into evidence as administrative exhibits. *See* Pet'r

Ex. 1 and 2.

3. Respondent is a resident of Texas. *See* Pet'r Ex. 3 & 4.

4. The Department has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. Respondent holds a Non-Resident Producer License, National Producer Number 14339137, with lines of authority in Life, Accident & Health or Sickness and Medicare Supplement/Long Term Care, first active on or about November 14, 2022. *See* Pet'r Ex. 3 and 4.

5. On or about November 14, 2022, Respondent submitted a license application to the Department in which he answered "No" to the screening question asking him if he had been notified by any jurisdiction of any delinquent tax obligation that is not the subject of a repayment agreement. *See* Pet'r Ex. 6.

6. On or about February 8, 2023, the Illinois Department of Insurance received an adverse administrative action (hereinafter, "Illinois Administrative Action") in the form of an Order of Suspension suspending Respondent's Illinois insurance license due to Respondent having an unpaid Individual Income Tax liability in the amount of \$2,613.79 in connection with tax year 2016, and for failure to file tax returns in Illinois in 2017, 2018, 2019, 2020, and 2021. *See* Pet'r Ex. 11a.

7. ASD Insurance Regulatory Analyst Manager Roy Foster ("Mr. Foster") testified that he was assigned to this matter due to the "PIC Alert" obtained through the Regulatory Information Retrieval System ("RIRS system") notifying the Department that Respondent had received an adverse administrative action in Illinois. *See* Pet'r Ex. 5. Mr. Foster testified that a licensee is required to report adverse 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), including license suspensions and license revocations. Mr. Foster noted that licensees may report such administrative actions by directly reporting to the Department or by uploading the document to the NIPR Attachment Warehouse. Upon receiving this assignment, Mr. Foster searched the Department's records and the NIPR Attachment Warehouse, and discovered that Respondent had not reported the Illinois Administrative Action to the Department. *See* Pet'r Ex. 7.

8. Mr. Foster obtained the Illinois Administrative Action document titled "Order of Suspension" from the Illinois Department of Insurance. A review of the Illinois Administrative Action document prompted Mr. Foster to retrieve and review Respondent's North Carolina license application, which was submitted on November 14, 2022. Mr. Foster noted Respondent's answer of "No" to the screening question regarding tax delinquencies appeared to be false, as Respondent has a current tax

delinquency in Illinois in connection with 2016, and also a subsequent failure to file Illinois taxes in 2017 through 2021, which caused his license to be suspended in Illinois. *See* Pet'r Ex. 6 and 11a.

9. Mr. Foster sent Respondent e-mails on March 23, 2023 and April 17, 2023 regarding the unreported Illinois Administrative Action due to failure to pay taxes. Each e-mail requested that Respondent provide a written response and documentation within ten days from that correspondence. Respondent did not respond in writing or otherwise to either of these e-mails. *See* Pet'r Ex. 8a and 8b.

10. On May 17, 2023, Mr. Foster sent Respondent a notice of an informal conference by email regarding the unreported Illinois Administrative Action Respondent received for failure to pay taxes. This informal conference notice scheduled the conference for July 11, 2023 at 11:00 a.m. by phone, and it also noted the Respondent's phone number of record that ASD would use to call him on that date and time. The informal conference notice further requested that Respondent notify Mr. Foster if there was another phone number for Respondent which ASD should use to contact him, and Mr. Foster also provided his direct phone number in the notice. Respondent did not contact Mr. Foster subsequent to the receipt of this e-mail. *See* Pet'r Ex. 8c.

11. On July 10, 2023, Mr. Foster sent Respondent a reminder that the informal conference was scheduled for 11:00 a.m. the next day. *See* Pet'r Ex. 8e. On July 11, 2023, at the appointed time, Mr. Foster attempted to call Respondent to hold the informal conference, but the Respondent did not answer. Mr. Foster sent Respondent an e-mail that same day, noting that the matter would proceed to a hearing based on Respondent's failure to report an Illinois Administrative Action pursuant to N.C. Gen. Stat. § 58-33-32(k), and due to Respondent's inaccurate, false or misleading answer on his license application regarding the tax delinquency pursuant to N.C. Gen. Stat. § 58-33-46(a)(1) and (a)(3). Mr. Foster again included his direct contact information in this e-mail. *See* Pet'r Ex. 8e. Respondent did not thereafter contact Mr. Foster.

12. On August 22, 2023, Mr. Garcia's Louisiana insurance license was revoked for failure to timely report the February 8, 2023 Illinois Administrative Action and for failure to respond to the Louisiana Department of Insurance's requests for documentation and information. (Hereinafter, referred to as "Louisiana Administrative Action".) *See* Pet'r Ex. 11b.

13. Mr. Foster sent Respondent an email on November 17, 2023, as Respondent had not timely reported the Louisiana Administrative Action". *See* Pet'r Ex. 7 and 11b. Mr. Foster's email requested that Respondent provide a written response and documentation regarding the Louisiana Administrative Action and the Illinois Administrative Action within ten (10) days. *See* Pet'r Ex. 8f. Respondent did

not provide any response.

14. Mr. Foster sent Respondent a final e-mail on March 21, 2024, again noting the unreported Illinois and Louisiana Administrative Actions, and an additional unreported administrative action he received in California. *See* Pet'r Ex. 8g and 11c. Mr. Foster's e-mail requested that he provide a written response and documentation regarding the Louisiana Administrative Action and the Illinois Administrative Action within ten (10) days. Mr. Foster sent this March 21, 2024 e-mail to an additional e-mail address that he obtained through his own research in an effort to reach Respondent, in addition to sending it to the e-mail address on record with the Department. *See* Pet'r Ex. 8g. Respondent did not provide any response to the March 21, 2024 e-mail.

15. Mr. Foster testified that at no time did Respondent contact ASD or otherwise respond to ASD's numerous attempts to reach him, which included e-mails, phone calls, and USPS first class mail. Respondent has at no time reported any administrative action to the Department. Mr. Foster testified that, in his opinion, Respondent has not shown an interest in retaining his North Carolina insurance licenses.

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 Petitioner 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. *See* Pet'r Ex. 1 and 2.

3. The evidence presented at the hearing supports the allegations of the Notice of Hearing and Petition that Respondent provided an inaccurate, false or misleading answer on his North Carolina License Application pursuant to N.C. Gen. Stat. § 58-33-46(a)(1). Respondent's answer of "No" to the screening question on his November 14, 2022 license application asking if he had been notified of tax delinquencies is inaccurate, false or misleading, as he had a tax delinquency in Illinois stemming from 2016, and further Respondent had failed to file required tax returns there in 2017, 2018, 2019, 2020, and 2021. Respondent never provided any information or explanation to ASD to refute ASD's allegation that his license application answer regarding the tax delinquency was false, despite having numerous opportunities to do so.

4. The evidence presented at the hearing supports the allegations of the Notice of Hearing and Petition as to Respondent's failure to timely report the Illinois and Louisiana Administrative Actions. Respondent was required to report each of

these adverse administrative actions within thirty (30) days of the effective date of those actions pursuant to N.C. Gen. Stat. § 58-33-32(k). Respondent never reported either of these administrative actions, in violation of N.C. Gen. Stat. § 58-33-32(k). Further, even after Respondent received correspondence from Mr. Foster related to the Illinois Administrative Action which explicitly informed Respondent of the reporting requirement of N.C. Gen. Stat. § 58-33-32(k), Respondent did not report subsequent adverse administrative actions.

5. N.C. Gen. Stat. § 58-33-46(a)(2) states that the Commissioner may place on probation, suspend, revoke or refuse to renew the license of a licensee that 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. Respondent's violations of N.C. Gen. Stat. § 58-33-32(k) in failing to report the Illinois and Louisiana Administrative Actions are violations of the insurance laws of this State and cause for disciplinary action against his insurance licenses pursuant to N.C. Gen. Stat. § 58-33-46(a)(2).

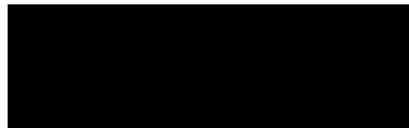
6. Respondent's inaccurate, false or misleading answer to the license application screening question regarding his tax delinquency pursuant to N.C. Gen. Stat. § 58-33-46(a)(1), Respondent's failure to report the Illinois and Louisiana Administrative Actions in violation of N.C. Gen. Stat. § 58-33-32(k), Respondent's repeated failures to respond to any of ASD's numerous attempts to contact Respondent about this matter, and Respondent's failure to attend the informal conference indicate that Respondent has not shown a continuing interest in retaining his North Carolina insurance licenses.

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 9th day of January, 2025.



Kyle Heuser
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

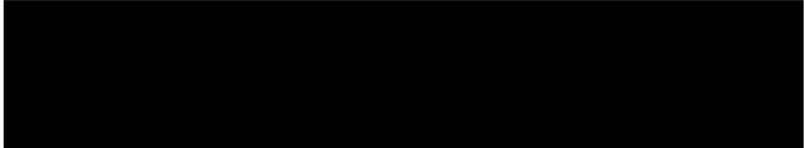
I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing a copy of the same via certified U.S. Mail, return receipt requested; via first class U.S. mail to the licensee, at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b);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

Eugene Michael Garcia
107 W Marietta St.
Madisonville, TX 77864-3023
(Respondent)

Certified Mail Tracking Number: 9589 0710 5270 0742 5897 54

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

This the 9th day of January, 2025.



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