

Based on the allegations set forth in the Petition in this matter, as well as careful consideration of the documentary and testimonial evidence presented at the hearing, the undersigned 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 enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers.

2. Armando Gutierrez (“Respondent”) currently holds an expired resident Insurance Producer License with lines of authority for Property and Casualty (“License”). Respondent’s North Carolina License was first active in North Carolina on February 9, 2021, and expired on or about August 31, 2023. *See* Pet’r’s Exs 3, 3A, 4, and 4A.

3. The Notice of Administrative Hearing was properly served on Petitioner 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 1–2.

4. Mr. Jeff Miller is a Complaint Analyst with ASD whose job duties include investigating complaints and handling alerts from the Personalized Information Capture System (“PIC alerts”), which are received through the National Association of Insurance Commissioners (“NAIC”) system.

5. On August 26, 2022, the State of Washington issued an order revoking Respondent’s Washington producer license (“Washington Revocation”). *See* Pet’r’s Ex. 7. The Washing Revocation became effective September 12, 2022. *See id.*

6. On or about October 18, 2022, ASD received a PIC alert that the State of Washington had uploaded Respondent’s Washington Revocation to the Regulatory Information Retrieval System (“RIRS”), a system that is accessible via NAIC. *See* Pet’r’s Ex. 5.

7. Lisa Webb, a former complaint analyst for ASD, was initially assigned to investigate the PIC alert. However, the case was reassigned to Mr. Miller in November of 2022, and Mr. Miller has handled the investigation from November 22, 2022, through the date of the hearing.

8. As part of his investigation, Mr. Miller obtained a copy of the Washington Revocation. *See* Pet’r’s Ex. 7. The Washington Revocation was based on Respondent’s failure to timely report the revocation of his Louisiana producer’s license (“Louisiana Revocation”). *See id.*

9. A North Carolina licensee is obligated to report out-of-state administrative actions to NCDOI within thirty days. *See* N.C. Gen. Stat. § 58-33-32(k). This requirement can be effectuated either by notifying ASD directly, or by

uploading a copy of the administrative action to the National Insurance Producer Registry ("NIPR") attachment warehouse.

10. Respondent reported the Louisiana Revocation to ASD on May 8, 2022, which was more than thirty days after its effective date. *See* Pet'r's Ex. 6. However, ASD chose not to take an administrative action against Respondent for the late reporting at that time.

11. In response to the October 2022 PIC alert, ASD sent a letter to Respondent on October 25, 2022, addressed to his residential address of record. *See* Pet'r's Ex. 8. The October 25, 2022, letter advised Respondent that ASD was aware of the Washington Revocation that became effective on September 12, 2022, and that Respondent had failed to report the Washington Revocation within thirty days of its effective date, as required by N.C. Gen. Stat. § 58-33-32(k). *See id.* The letter instructed Respondent to provide a written response and a copy of the Washington Revocation within ten days of October 25, 2022. *See id.*

12. Respondent failed to respond to the October 25, 2022, letter.

13. Consequently, on November 15, 2022, Mr. Miller sent another correspondence to Respondent's residential mailing address and to his email address of record noting that Respondent had failed to provide a copy of the Washington Revocation and a written statement as requested by the October 25, 2022, letter. *See* Pet'r's Exs 8 and 9. The correspondence further advised Respondent that, should he not provide a copy of the Washington Revocation and a written statement to ASD within ten days, ASD would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195. *See* Pet'r's Ex. 9.

14. Respondent also failed to respond to the November 15, 2022, correspondence.

15. On January 17, 2023, ASD sent yet another correspondence to Respondent. *See* Pet'r's Ex. 10. The January 17, 2023, correspondence was sent via email and was also physically mailed to Respondent's residential address of record. *Id.* This correspondence stated that Respondent appeared to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k) and informed him that an informal conference had been scheduled to discuss the allegations on February 7, 2023, at 11:00 a.m. *Id.*

16. Respondent failed to respond to ASD's January 17, 2023, letter, and did not attend the informal conference on February 7, 2023.

17. On February 9, 2023, ASD sent another correspondence to Respondent's email address and residential address of record, again advising him that he appeared

to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k). *See* Pet'r's Ex. 11. The correspondence also advised Respondent that a second informal conference had been scheduled to discuss the allegations on February 23, 2023, at 11:00 a.m. *Id.*

18. Respondent failed to respond to the February 9, 2023, correspondence and failed to attend the second informal conference on February 23, 2023.

19. As of December 13, 2023, Respondent had still not reported the Washington Revocation to ASD. *See* Pet'r's Ex. 6A.

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. Respondent was properly served with the Notice of Administrative Hearing and Petition for Administrative Hearing in this matter. *See* Pet'r's Exs. 1–2.

3. Pursuant to N.C. Gen. Stat. § 58-33-32(k), Respondent was required to report the Washington Revocation within thirty days of its effective date. Accordingly, Respondent's failure to report the Washington Revocation to NCDOI constitutes a violation of N.C. Gen. Stat. § 58-33-32(k),

4. N.C. Gen. Stat. § 58-33-46(a)(2) authorizes the Commissioner to "suspend, revoke, or refuse to renew any license" issued under Article 33 of Chapter 58 of the North Carolina General Statutes for violating any insurance law of this or any other state.

5. Respondent's violation of N.C. Gen. Stat. § 58-33-32(k) constitutes a violation of an insurance law of the State of North Carolina.

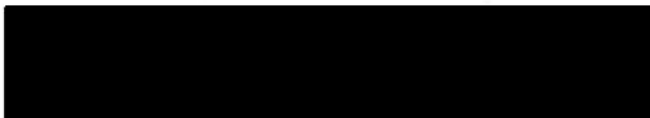
6. Based on the evidence received and the applicable laws, the undersigned Hearing Officer concludes that Respondent's license should be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) for violating N.C. Gen. Stat. § 58-33-32(k).

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

ORDER

It is ORDERED that Respondent's resident North Carolina Insurance Producer license is hereby REVOKED.

This 1st day of February, 2024.



Erin E. Gibbs, 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: 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; 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) as set out below.

Armando Gutierrez
4916 Grand Canyon RD NW
Concord, North Carolina 28027-7775

Certified Mail Tracking Number: 70222410000096625420


In addition, on this day a courtesy email was sent to Mr. Gutierrez at the email address set out below;

Armando.Gutierrez.080810@gmail.com
(Respondent)

I FURTHER HEREBY CERTIFY that I have this day served the foregoing **ORDER and FINAL AGENCY DECISION** by sending a copy of the same *via* State Courier to Attorney for Petitioner addressed as follows:

Gina M. Von Oehsen Cleary
Special Deputy Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 16th day of February, 2024



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