

NORTH CAROLINA DEPARTMENT OF INSURANCE  
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA	)	BEFORE THE COMMISSIONER
	)	OF INSURANCE
COUNTY OF WAKE	)	
	)	
IN THE MATTER OF:	)	
	)	ORDER AND
THE LICENSURE APPLICATION	)	FINAL AGENCY DECISION
OF TIWANA HORNE	)	
	)	Docket No. 1872
	)	
	)	
	)	
	)	

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**THIS MATTER** was heard on Monday, January 22, 2017 by the undersigned Hearing Offer, designated by the North Carolina Commissioner of Insurance (“Commissioner”) under N. C. Gen. Stat. §§ 58-2-50 and 58-2-55, pursuant to a Notice of Hearing that was duly served and issued.

Respondent Tiwana Horne (“Respondent”) was present at the hearing and represented by Attorney Timothy Gunther. The Agent Services Division (“Agent Services”) of the North Carolina Department of Insurance (“NCDOI”) was present at the hearing and was represented by LaShawn Strange Piquant, Assistant Attorney General. Agent Services Licensing Supervisor Robert Cunningham testified at the hearing on behalf of NCDOI. Respondent also testified at the hearing.

Agent Services offered into evidence Exhibits 1 through 9, which were admitted into evidence. Respondent also entered Exhibit R-1 into evidence.

Based upon careful consideration of the evidence and arguments presented,

and based upon the entire record in this 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 is a state agency responsible for the enforcement of the insurance laws of North Carolina and for regulating and licensing insurance agents and business entities in accordance with Chapter 58 of the North Carolina General Statutes.

2. On or about December 7, 2016, Respondent applied for licensure as a resident insurance agent. Respondent submitted a completed application, completed the required pre-licensing education courses, passed applicable insurance examinations, and provided the requested documentation to augment her application.

3. Respondent answered affirmatively to the application questions regarding whether she had been ever been convicted of a misdemeanor and also whether she had been convicted of a felony.

4. Respondent was required to provide certified copies of all criminal convictions as well as provide a detail explanation regarding each conviction as part of the application process.

5. Respondent provided criminal records secured from Wilson County that indicated that she had several misdemeanor and felony criminal convictions.

6. Agent Services conducted a separate criminal background check that revealed Respondent had several felony and misdemeanor criminal convictions in

three separate counties in North Carolina---Wilson, Johnston and Onslow Counties. Respondent was convicted of seventeen misdemeanor and felony crimes beginning in 1992 through 2006. Of these seventeen convictions, four were felony crimes.

7. Respondent disclosed the following felony and misdemeanor convictions from Wilson County:

- a. On or about September 28, 1998 in Wilson County Superior Court, Respondent was convicted of Forgery of Instrument (1998CRS009889), a felony.
- b. On or about September 28, 1998 in Wilson County Superior Court, Respondent was convicted of Aid and Abet Obtain Property False Pretense (1998CRS014483), a felony.
- c. On or about January 4, 2001 in Wilson County Superior Court, Respondent was convicted of Assault with a Deadly Weapon - Serious Injury (1999CRS054833), a felony.
- d. On or about April 7, 1992 in Wilson County Superior Court, Respondent was confound convicted of the misdemeanor Second Degree Trespass (1992CR 003578).
- e. On or about April 7, 1992 in Wilson County Superior Court, Respondent was convicted of misdemeanor Assault with a Deadly Weapon (1992CR 003579).
- f. On or about April 7, 1992 in Wilson County Superior Court, Respondent was convicted of the misdemeanor Communicating Threats (1992CR 003580).
- g. On or about May 26, 1993 in Wilson County Superior Court, Respondent was convicted of misdemeanor Assault with a Deadly Weapon (1993CR 005093).
- h. On or about July 26, 1993 in Wilson County Superior Court, Respondent was convicted of the misdemeanor Shoplifting Concealment of Goods (1993CR 005045).
- i. On or about March 1, 1999 in Wilson County Superior Court, Respondent was convicted of the misdemeanor Simple Worthless Check

(1998CR 013784).

- j. On or about May 17, 1999 in Wilson County Superior Court, Respondent was convicted of misdemeanor Attempted Larceny (1998CR 003875).
  - k. On or about January 5, 2001 in Wilson County Superior Court, Respondent was convicted of misdemeanor Possession of Stolen Property (1999CR 057348).
  - i. On or about January 5, 2001 in Wilson County Superior Court, Respondent was convicted of misdemeanor Possession of Stolen Property (1999CR 057352).
8. Respondent did not disclose the following misdemeanor convictions for

Onslow County:

- a. On or about March 29, 2001 in Onslow County Superior Court, Respondent was convicted of misdemeanor Financial Card Fraud (2000CRS062188).
- b. On or about March 29, 2001 in Onslow County Superior Court, Respondent was convicted of three counts of the misdemeanor charge of Possession of Stolen Goods/Property (2000CRS062189).
- c. On or about March 29, 2001 in Onslow County Superior Court, Respondent was convicted on three counts of the misdemeanor charge of Possession of Stolen Goods/Property (2000CRS062190).
- d. On or about March 29, 2001 in Onslow County Superior Court, Respondent was convicted of the misdemeanor charge of Larceny (2000CRS062200).

9. Respondent failed to disclose the following felony conviction in Johnston County: on February 11, 2004 in Johnston County Superior Court, Respondent was convicted of Larceny (2003CRS056095).

10. Respondent only submitted information to Agent Services regarding the criminal convictions for Wilson County. Respondent did not disclose her criminal convictions for Johnston County or Onslow County.

11. Respondent's criminal convictions included crimes involving moral turpitude, and crimes involving dishonesty and breach of trust.

12. Respondent has felony convictions of forgery and larceny, both are crimes of dishonesty and are crimes involving moral turpitude.

13. Respondent has been convicted of several misdemeanor crimes of dishonesty, breach of trust and/or involving moral turpitude, including larceny and worthless check.

14. At the hearing, Respondent did not dispute that she had criminal convictions in Johnston and Onslow counties in addition to Wilson County. Respondent also admitted that she did not submit information regarding those criminal convictions to Agent Services in the application process.

15. Respondent's convictions provide substantial grounds to support the denial of her licensure application pursuant to N.C. Gen. Stat. §58-33-30, 58-33-31, and 58-33-46.

16. United States Code Section 18 USC 1033 (e)(1)(A)(2) requires that "any individual who has been convicted of any felony involving dishonesty or a breach of trust" who seeks to engage in the business of insurance must have the written consent of any insurance regulatory official authorized to regulate the insurer.

17. Pursuant to 18 USC 1033 (e) (1) (A) (2), Respondent cannot engage in business of insurance in North Carolina without the authorization of the Commissioner.

## 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 N. C. Gen. Stat. §§58-2-50, 58-33-30, 58-33-31, 58-33-46, 150B-38, 150B-40 and other applicable statutes and regulations.

2. Respondent was properly served with the Notice of Hearing in this matter.

3. N.C. Gen. Stat. § 58-33-30 (g) provides that the Commissioner shall refuse to issue the license and the licensure application can be “denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-33-46.”

4. N.C. Gen. Stat. §58-33-31 provides that before an application for licensure can be approved, an applicant must demonstrate that the applicant “(2) has not committed any act that is a ground for probation, suspension, nonrenewal, or revocation set forth in G.S. 58-33-46.”

5. N.C. Gen. Stat. §58-33-46(a) (6) provides that the Commissioner may place on probation, suspend, revoke, or refuse to renew any license where the licensee or applicant has been “convicted of a felony or a misdemeanor involving dishonesty, a breach of trust, or moral turpitude.”

6. United States Code Section 18 USC 1033 (e)(1)(A)(2) requires that “any individual who has been convicted of any felony involving dishonesty or a breach of

trust” who seeks to engage in the business of insurance must have the written consent of any insurance regulatory official authorized to regulate the insurer.

7. Pursuant to 18 USC 1033 (e) (1) (A) (2), Respondent cannot engage in business of insurance in North Carolina without the authorization of the Commissioner.

8. Respondent has failed to meet the requirements for licensure under N.C. Gen. Stat. §§ 58-33-30, 58-33-31, 58-33-46 and other applicable statutes and regulations.

9. Respondent’s application for licensure should be denied pursuant to N.C. Gen. Stat. §§ 58-33-30(g), 58-33-31(a) and N.C. Gen. Stat. § 58-33-46 (a) (6) on the grounds that Respondent has been “convicted of a felony or a misdemeanor involving dishonesty, a breach of trust, or moral turpitude.”

10. Respondent’s felony criminal convictions prohibit the issuance of an insurance license pursuant 18 USC 1033, which requires specific written authorization from the Commissioner to engage in the business of insurance in North Carolina.

11. Respondent’s request for authorization to engage in the business of insurance in North Carolina is also denied.

### **ORDER**

Based upon the foregoing Finding of Fact and Conclusions of Law, it is ORDERED that the licensure application of Tiwana Horne be denied and that the decision to deny the licensure application by Agent Services be upheld.

## 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 the 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.**

This 16<sup>w</sup> day of February, 2018.



Meghan N. Cook  
Hearing Officer




## 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); and via State Courier, addressed as follows:

**Timothy Gunther**  
**PO Box 185**  
**Raleigh NC 27602**  
*Certified Mail Tracking Number: 70170530000073198074*

**LaShawn S. Piquant**  
**Assistant Attorney General**  
**N.C. Department of Justice**  
**Insurance Section**  
**9001 Mail Service Center**  
**Raleigh, NC 27699-9001**

This the 16<sup>th</sup> day of February 2018.

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

