

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
XAVIER HOWARD
(NPN# 19648962)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2263

THIS MATTER was heard on March 5, 2025, 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 hearing room of the North Carolina Department of Insurance, located at 3200 Beechleaf Court, Raleigh, North Carolina.

Petitioner, Agent Services Division of the North Carolina Department of Insurance (“Petitioner” or “ASD”), was represented by Assistant Attorney General, Nicholas B. Sorensen. Matthew Reck, Complaint Analyst with ASD (“Reck”), appeared and testified on behalf of Petitioner. Respondent Xavier Howard (“Respondent”) failed to appear and was not represented by counsel at the hearing.

The undersigned Hearing Officer accepted and considered testimony and evidence offered by ASD in support of the Petition at the hearing. *See* Pet’r’s Ex. 1. Pet’r’s Exs. 1-11 were admitted into evidence.

The Petition for Administrative Hearing alleged that Respondent was subject to administrative action pursuant to N.C. Gen Stat. § 58-33-46(a)(2) for violating N.C. Gen Stat. § 58-33-32(k) for failure to report another state’s administrative action. *See* Pet’r’s Ex. 1.

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’s Exs. 1-3):

XAVIER HOWARD
4311 W. OAKLAND PARK BLVD.
LAUDERDALE LAKES, FL 33313-1917

3. The Affidavit of Service indicates that copies of the Notice of Hearing and Petition were deposited in the United States Postal Service for mailing by certified mail, return receipt requested and first-class U.S. Mail, addressed to Respondent as indicated above at 4311 W. Oakland Park Blvd., Lauderdale Lakes, FL 33313-1917 on February 5, 2025. The documents were successfully delivered to Respondent on February 10, 2025, at the address on record with the Commissioner. *See* Pet’s Ex. 2.

4. Respondent was granted a non-resident insurance producer license (“License”) in North Carolina on June 1, 2021. Respondent’s License remains active, and he holds lines of authority in accident and health or sickness, and Medicare supplement//long-term care. *See* Pet’s Ex. 3.

5. On March 11, 2024, the New York Department of Financial Services (“New York”) issued a letter denying Respondent’s request for a non-resident insurance producer license. The listed grounds for denial were that Respondent had demonstrated untrustworthiness and/or incompetence within the meaning and intent of New York’s insurance laws. *See* Pet’s Ex. 7.

6. Lindsay Melgarejo (“Melgarejo”) was a Complaint Analyst with ASD and, as part of her job responsibilities, handled 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 NCDOI by NAIC if another state takes administrative action against a North Carolina licensee and enters the information into the system. Melgarejo was assigned the PIC Alert relating to Respondent after New York entered

information on April 30, 2024, into the NAIC system regarding an administrative action taken against Respondent. *See* Pet'r's Ex. 5.

7. Melgarejo, during her investigation of the enforcement file relating to New York's administrative action, reviewed various documents relating to Respondent. These documents included Respondent's state-based system licensee summaries (*see* Pet'r's Ex. 3), Respondent's NAIC state licensing reports from the Producer Database (*see* Pet'r's Ex. 4), Respondent's reports listed on the Regulatory Information Retrieval System ("RIRS") (*see* Pet'r's Ex. 5), and Respondent's NIPR attachment warehouse printout (*see* Pet'r's Ex. 6).

8. Melgarejo, as part of her enforcement investigation against Respondent, obtained a copy of New York's administrative action. The administrative action from New York was the March 11, 2024 license denial. *See* Pet'r's Ex. 7. Melgarejo 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).

9. Melgarejo contacted Respondent on May 3, 2024 by sending correspondence to his e-mail address, xlh1996@yahoo.com, which had been provided to the Commissioner. The e-mail advised Respondent that NCDOI had been made aware of an administrative action taken by New York with an effective date of March 11, 2024. The e-mail informed Respondent that the action was unreported and that more than thirty (30) days had passed since the effective date. Melgarejo requested from Respondent a written response and documentation of New York's administrative action taken against his license within ten (10) days of the e-mail. Melgarejo provided her contact information in the e-mail. Respondent did not respond to Melgarejo's requests for documents and information. *See* Pet'r's Exs. 3 and 8.

10. On May 15, 2024, Melgarejo sent a follow-up correspondence to Respondent's email address of record. Melgarejo requested a response to the correspondence previously sent on May 3, 2024. The correspondence notified Respondent that the Petitioner may proceed with administrative action if he did not respond within ten (10) days. Melgarejo provided her contact information in the e-mail. Respondent did not reply to this correspondence. *See* Pet'r's Ex. 9.

11. On June 5, 2024, Melgarejo mailed and e-mailed an informal conference notice to Respondent. The letter informed Respondent that since he failed to report New York's 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). The notice also informed Respondent that a Telephonic Informal Conference had been scheduled for July 11, 2024, at 10:00 a.m., to discuss these allegations further. Melgarejo stated in the notice that Respondent would be contacted at (945) 803-0423, his phone number reported to

the Commissioner, for the conference. *See* Pet'r's Exs. 3 and 10.

12. Melgarejo and her supervisor, Nadine Scott, held the Informal Conference with Respondent on July 11, 2024 at 10:00 a.m. to further discuss the unreported New York administrative action. The parties discussed the unreported action.

13. Prior to this case coming to hearing, Reck replaced Melgarejo as the assigned complaint analyst handling this claim.

14. At hearing, Reck testified that the New York action remained unreported, that there had been no further communications from Respondent, and that Petitioner was seeking revocation of Respondent's non-resident insurance producer license.

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 5, 2025, hearing. *See* Pet'r's Exs. 1 and 2.

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. 3.

5. Effective March 11, 2024, New York denied Respondent's application for a nonresident insurance producer license. This is an administrative action, as contemplated by N.C. Gen. Stat. § 58-33-32(k). *See* Pet'r's Exs. 5 and 7.

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

7. N.C. Gen. Stat. § 58-33-46(a) provides grounds for which 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 New York 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).

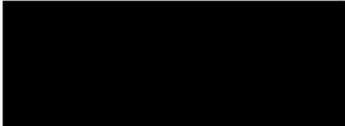
10. Based on the evidence received, and the applicable law, the undersigned Hearing Officer concludes that Respondent’s North Carolina non-resident insurance producer license should be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) for her violation of N.C. Gen. Stat. § 58-33-32(k).

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 14 day of May, 2025.


Terrence D. 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:

XAVIER HOWARD
4311 W. OAKLAND PARK BLVD.
LAUDERDALE LAKES, FL 33313-1917
(Respondent)

Certified Mail Tracking Number: 9589 0710 5270 1723 5214 42

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
1201 Mail Service Center
Raleigh, NC 27699-1201