

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
BRENDA KINARD
(NPN# 9162121)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2253

THIS MATTER was heard on January 8, 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 present and represented by Assistant Attorney General, Nicholas B. Sorensen. Roy Foster, Outreach Manager with ASD (“Foster”), appeared and testified on behalf of Petitioner. Respondent, Brenda Kinard, (“Respondent”) did not 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’s Ex. 1.

Petitioner’s exhibits 1-14 were admitted into evidence. Petitioner’s exhibit 15 was marked for identification purpose only.

The Petition for Administrative Hearing alleged that Respondent violated N.C. Gen Stat. §§ 58-33-32(k) and 58-33-46(a)(2) for failure to report another state’s administrative action.

BASED UPON careful consideration of the allegations set forth in the Notice of Administrative Hearing (“Notice”) and attached Petition for Administrative Hearing (“Petition”) in this matter, as well as 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 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 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 North Carolina Commissioner of Insurance (“Commissioner”) pursuant to N. C. Gen. Stat. § 58-2-69(b). Respondent provided the following address to the Commissioner (*see* Pet’s Exs. 1-4):

BRENDA KINARD
711 APPLE ORCHARD RD.
CLINTON, SC 29325-5107

3. The Certificate of Service indicates that copies of the Notice of Hearing and Petition were deposited in first-class mail addressed to Respondent as indicated at the above address on November 22, 2024. Service of the Notice of the Hearing and the Petition at this address was perfected upon the expiration of four (4) days after November 22, 2024, or on November 26, 2024. N.C. Gen. Stat. § 58-2-69. The Affidavit of Service indicates that copies of the Notice of Hearing and Petition were later shipped via FedEx Priority Overnight on December 18, 2024, with proof of delivery on December 19, 2024. *See* Pet’s Exs. 1 and 2.

4. Respondent holds an active non-resident Insurance Producer License in North Carolina with an effective date of October 26, 2021, and with lines of authority in accident and health or sickness, med supp/long term care, and life. *See* Pet’s Ex. 3.

5. On August 5, 2022, Respondent applied for a nonresident insurance producer license from the Kansas Insurance Department. On her application, Respondent disclosed a prior criminal conviction. After reviewing her application, Kansas denied Respondent’s license based on the prior criminal conviction. On August 22, 2022, notice of the denial was sent to Respondent. *See* Pet’s Ex. 11.

6. On October 1, 2022, Respondent submitted a new application to the Kansas Insurance Department for a nonresident insurance producer license. Respondent disclosed her prior criminal conviction but failed to disclose her prior license denial from August on the new application. On November 3, 2022, Kansas issued a Decision on License Application notifying Respondent that her license application was being denied due to her prior criminal conviction and her failure to disclose the previous license denial. *See* Pet’s Ex. 12.

7. On September 12, 2023, the Louisiana Department of Insurance issued to Respondent a Notice of Revocation. In its Order, Louisiana cited the failure to report the Kansas denials as the grounds for revocation. Respondent did not report the Louisiana revocation to the Commissioner. *See* Pet'r's Ex. 13.

8. On November 15, 2023, Respondent reported the Kansas denials through the NAIC's National Insurance Producer Registry ("NIPR") Attachment Warehouse. This was 377 days after the effective date of the November 3, 2002 Kansas denial, and 447 days since the effective date of the August 25, 2022 Kansas denial. *See* Pet'r's Exs. 5-6 and 11-12.

9. On November 17, 2023, the Louisiana Notice of Revocation was entered into the Respondent's reports listed on the Regulatory Information Retrieval System ("RIRS"). *See* Pet'r's Ex. 5.

10. Foster is an Outreach Manager 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 NCDOI by NAIC if another state enters the information into the system and takes Administrative Action against a North Carolina licensee. Foster was assigned the PIC Alert relating to Respondent that was entered into the NAIC system by the Louisiana Department of Insurance on November 17, 2023. *See* Pet'r's Ex. 5. Foster handled the investigation of Petitioner's enforcement file from initial assignment up until the date of the hearing.

11. Foster, during his investigation, 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's state licensing reports from the Producer Database (*see* Pet'r's Ex. 4), Respondent's reports listed on RIRS (*see* Pet'r's Ex. 5), and Respondent's uploads to the NIPR Attachment Warehouse (*see* Pet'r's Ex. 6).

12. Foster contacted Respondent on November 22, 2023 by sending correspondence to the e-mail address (bkinnard43@yahoo.com) Respondent had provided to the Commissioner. *See* Pet'r's Exs. 3 and 9. This November 22, 2023 correspondence advised Respondent that NCDOI was made aware of an administrative action taken by the Louisiana Department of Insurance with an effective date of September 12, 2023. Foster indicated that Louisiana's administrative action had not yet been reported to NCDOI. *See* Pet'r's Ex. 9. Foster requested that Respondent provide a written response and documentation of Louisiana's administrative action within ten (10) days of November 22, 2023. Respondent did not respond to Foster's requests for documents and information.

13. On November 29, 2023, Foster sent correspondence to Respondent's e-mail address. *See* Pet'r's Ex. 8. Foster requested a response to the correspondence previously sent on November 22, 2023. The correspondence notified Respondent that she may be violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195 if she did not respond within ten (10) days of correspondence and that Petitioner may proceed with administrative action. *Id.* Respondent did not respond to this correspondence.

14. On December 11, 2023, the Bureau of Insurance for Maine's Department of Professional and Financial Regulation issued an Order denying Respondent's application for a nonresident insurance producer license. Respondent's prior criminal conviction and failure to respond to request for information from Maine were the grounds for denial. The action became effective on January 10, 2024. Respondent did not report this denial to the Commissioner. *See* Pet'r's Ex. 14.

15. On December 13, 2023, Foster sent correspondence to Respondent's physical and electronic mailing addresses, which had been provided to the Commissioner. *See* Pet'r's Ex. 9. The purpose of this correspondence was to schedule an informal conference to discuss Petitioner's allegations that Respondent could be subject to administrative action pursuant to N.C. Gen. Stat. § 58-33-46(a)(2). The correspondence notified Respondent that the conference would be held telephonically on February 13, 2024 at 11:00 a.m. and that she would be contacted at the phone number provided to the Commissioner (864-340-2418). *See* Pet'r's Exs. 3 and 9. Respondent did not respond to this correspondence.

16. On February 7, 2024, Foster e-mailed Respondent a reminder that she would be contacted for an informal conference on February 13, 2024, at 11:00 a.m. *See* Pet'r's Ex. 10. Respondent did not respond to this correspondence.

17. Foster attempted to hold an informal conference with Respondent on February 13, 2024, at 11:00 a.m. as stated in the abovementioned e-mail and in the informal conference. *See* Pet'r's Exs. 9-10. Foster contacted Respondent at the number listed in the informal conference notice. When Respondent did not answer at that number, Foster attempted to contact Respondent at a separate number which she had provided to the NAIC (864-871-2946). *See* Pet'r's Ex. 4. Respondent did not answer when contacted at the alternative number.

18. Subsequent to the informal conference, Foster made another attempt to reach Respondent and was successful. The parties discussed an informal resolution of the investigation on this call. However, there was no further contact or follow-up from Respondent following this call.

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 January 8, 2025, hearing. *See* Pet'r's Exs. 1 and 2.

3. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), the Commissioner is justified to revoke a license issued by the Department of Insurance for a violation of the insurance law of North Carolina. *See* Pet'r's Ex. 1.

4. N.C. Gen. Stat. § 58-33-32(k) is a North Carolina insurance law which requires an insurance producer to report to the Commissioner "any administrative action" taken against the producer by another state "within 30 days after the final disposition of the matter." Section 58-33-32(k) further specifies that this report "shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action."

5. Respondent violated the insurance law of North Carolina within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2) by failing to timely report the Administrative Actions from Kansas, Louisiana, and Maine within thirty (30) days of the final disposition, as required by N.C. Gen. Stat. § 58-33-32(k).

6. Based on the evidence received, and the applicable law, the undersigned Hearing Officer concludes that Respondent's North Carolina resident insurance producer license should be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) for her violations 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 10th day of February, 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:

Brenda Kinard
711 Apple Orchard Rd.
Clinton, SC 29325-5107
(Respondent)

Certified Mail Tracking Number: 7022 2410 0000 9662 6700

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 10th day of February, 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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