

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
LINDSAY MARIE LIPPL
(NPN # 15650481)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2097

THIS MATTER was heard on November 17, 2022 by the undersigned Hearing Officer, designated by the North Carolina Commissioner of Insurance (hereinafter, "Commissioner") under N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in Hearing Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance (hereinafter, "Agent Services"), was represented by Assistant Attorney General Nathan Childs. Respondent Lindsay Marie Lippl (hereinafter, "Respondent") did not appear and was not represented by counsel at the hearing.

Service of the Notice of Administrative Hearing providing Respondent with due notice of the November 17, 2022 hearing was perfected via first class U.S. Mail on October 29, 2022 pursuant to the deeming provisions of N.C. Gen. Stat. § 58-2-69(e), as shown by the Affidavit of Service admitted into evidence at the hearing.

Agent Services moved, pursuant to 11 N.C.A.C. 1.0423(A), for the imposition of sanctions due to Respondent's failure to appear at the hearing. Petitioner's motion for sanctions is DENIED. The undersigned Hearing Officer proceeded to accept and consider testimony and evidence offered by Agent Services in support of its Petition at the hearing.

Jeff Miller, Agent Services Complaint Analyst, appeared and testified on behalf of Agent Services. Agent Services' Exhibits 1 through 14, including all subparts, were admitted into evidence.

BASED UPON the careful consideration of the evidence and arguments presented at the hearing by Agent Services, and based upon the entire record in this proceeding, the Hearing Officer hereby makes the following:

FINDINGS OF FACT

1. Respondent has an active non-resident North Carolina Insurance Producer's license with lines of authority in Casualty and Property ("License"). Respondent's License was first issued to Respondent on July 20, 2017.

2. Respondent is a resident of Virginia.

3. On August 1, 2020, warrants of arrest were issued by the Commonwealth of Virginia, Spotsylvania County General District Court charging Respondent with misdemeanor assault and battery, misdemeanor public intoxication, and felony breaking and entering a dwelling. Respondent was arrested, released on recognizance, and ordered to appear in Spotsylvania County District Court at 8:30 a.m. on August 11, 2020 for an initial pretrial hearing.

4. In compliance with N.C. Gen. Stat. § 58-33-32(l), Respondent reported her criminal prosecution to the Commissioner within thirty (30) days of the August 11, 2020 initial pretrial hearing by uploading a statement and court records to the Attachment Warehouse of the National Insurance Producer Registry on August 31, 2020.

5. On November 24, 2020, in Case No. C20-7561, in the Commonwealth of Virginia, Spotsylvania County General District Court, Respondent was convicted upon a plea of guilty to the lesser included offense of misdemeanor trespass. Respondent was sentenced to a jail sentence of six months, which was suspended for a period of three years conditioned upon being of good behavior.

6. Although Respondent was required by N.C. Gen. Stat. § 58-2-69(c) to report her criminal conviction in writing to Commissioner "within 10 days after the date of conviction," Respondent did not disclose the November 24, 2020 conviction until January 5, 2021 by uploading a statement and court records to the Attachment Warehouse of the National Insurance Producer Registry. Respondent uploaded additional court records related to the November 24, 2020 conviction to the Attachment Warehouse on January 12, 2021.

7. Effective June 16, 2021, the California Department of Insurance took administrative action against Respondent by entering an Order of Revocation of License for Non-Payment of Cost Reimbursement dated May 10, 2021 in File No. OBS 3610-A revoking Respondent's California restricted property broker-agent license and California restricted casualty broker-agent license on the grounds that Respondent failed make any payment towards a \$1,500 reimbursement required by a prior order of the California Department of Insurance entered on November 5, 2019.

8. Respondent did not report the June 16, 2021 California administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. §

58-33-32(k) and had not reported the administrative action to the Commissioner as of the date of the November 17, 2022 hearing in this proceeding.

9. Effective September 20, 2021, the Office of the Insurance Commissioner of the State of Washington took administrative action against Respondent by entering an Order Revoking License dated September 3, 2021 in WAOIC Case No. 954941 revoking Respondent's Washington non-resident insurance producer license on the grounds that Respondent failed to report the California administrative action within 30 days of the final disposition of that matter and failed to respond to inquiries from the Washington Office of the Insurance Commissioner relating to the California administrative action, in violation of Washington law.

10. Respondent did not report the September 20, 2021 Washington administrative action to the Commissioner within thirty (30) days as required by N.C. Gen. Stat. § 58-33-32(k) and had not reported the administrative action to the Commissioner as of the date of the November 17, 2022 hearing in this proceeding.

11. Evidence was also presented showing that the South Dakota Department of Labor and Regulation Division of Insurance issued a Final Decision dated August 8, 2022 revoking Respondent's South Dakota non-resident insurance producer license and that Respondent had not reported the South Dakota administrative action to the Commissioner as of the date of the November 17, 2022 hearing in this proceeding.

12. Respondent failed to respond to written inquiries from Agent Services Complaint Analyst Jeff Miller mailed to Respondent's residence address of record on July 19, 2021 and August 4, 2021 seeking information regarding the California administrative action. Respondent also failed to participate in a September 27, 2021 telephonic informal conference scheduled by Agent Services in an August 20, 2021 letter sent by Mr. Miller to Respondent's residence address of record to discuss the California administrative action. When Mr. Miller attempted to speak with Respondent by telephone at the scheduled time on September 27, 2021, Respondent could not be reached.

13. Respondent also failed to participate in a second telephonic informal conference scheduled to occur on November 17, 2021 by Agent Services in an October 19, 2021 email sent by Mr. Miller to Respondent's email address of record to discuss the California and Washington administrative actions. When Mr. Miller attempted to speak with Respondent by telephone at the scheduled time on November 17, 2021, Respondent could not be reached.

14. Additionally, Respondent failed to participate in a third telephonic informal conference scheduled to occur on January 12, 2022 by Agent Services in a December 1, 2021 email sent by Mr. Miller to Respondent's email address of record

to discuss the California and Washington administrative actions as well as Respondent's failure to timely report her November 24, 2020 misdemeanor conviction. When Mr. Miller attempted to speak with Respondent by telephone at the scheduled time on January 12, 2022, Respondent could not be reached. Agent Services left voice mails for Respondent indicating that Agent Services intended to proceed to a formal administrative hearing.

15. On January 19, 2022, Mr. Miller spoke with Respondent on the telephone. Mr. Miller's contemporaneous notes from the call indicate that Respondent agreed to accept a five-year voluntary surrender of her North Carolina License. No such surrender was made prior to the November 17, 2022 hearing.

BASED UPON the foregoing findings of fact, the Hearing Officer makes the following:

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and the subject matter.

2. Respondent was properly served with the Notice of Administrative Hearing in this matter but failed to attend the November 17, 2022 hearing or retain counsel to represent her at the hearing.

3. N.C. Gen. Stat. § 58-33-46(a) specifies seventeen grounds on which the Commissioner may "place on probation, suspend, revoke, or refuse to renew" a producer's license.

4. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one basis for the disciplinary action against a license issued by the Department of Insurance is violation of the insurance laws of North Carolina or any other State.

5. N.C. Gen. Stat § 58-2-69(c) is a North Carolina insurance law that requires licensed insurance producers who are "convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction" to "notify the Commissioner in writing of the conviction within 10 days after the date of the conviction."

6. Respondent failed to notify the Commissioner of her criminal conviction for misdemeanor trespass in the Commonwealth of Virginia, Spotsylvania County General District Court within 10 days after her November 24, 2020 conviction.

7. By failing to timely report her criminal conviction to the Commissioner within 10 days after her November 24, 2020 conviction, Respondent violated a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

8. N.C. Gen. Stat. § 58-33-32(k) is a North Carolina insurance law that 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.”

9. Agent Services’ evidence shows that Respondent failed to report the California and Washington administrative actions to the Commissioner within thirty days of the actions’ respective final dispositions, as mandated by N.C. Gen. Stat. § 58-33-32(k). As of the hearing date, Respondent had not reported either administrative action to Agent Services or the National Insurance Producer Registry.

10. Agent Services also presented evidence showing that Respondent’s course of conduct in failing to timely report administrative actions continues, as Respondent has also failed to timely report a more recent August 8, 2022 administrative action taken by South Dakota to the Commissioner or the National Insurance Producer Registry.

11. By failing to timely report the California and Washington administrative actions within thirty days of their final dispositions, Respondent violated a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

12. Agent Services’ evidence also shows that Respondent failed to respond to written requests from Agent Services for documents and other information related to its licensure investigation, despite Respondent’s obligation to provide information to Agent Services “on demand” under N.C. Gen. Stat. §§ 58-2-185 and 58-2-195.

13. The record amply supports a finding that Respondent engaged in conduct supporting disciplinary action against her License under N.C. Gen. Stat. §§ 58-33-46(a)(2) due to her violations of N.C. Gen. Stat. §§ 58-2-69(c), 58-33-32(k), 58-2-185, and 58-2-195.

14. Failing to timely report a misdemeanor conviction to Agent Services is a serious offense that deprives the Department of Insurance of information directly relevant to assessing whether the licensee should be allowed to continue to engage in the insurance business in North Carolina. This is particularly true where the misdemeanor involves dishonesty or breach of trust because the criminal conduct may be substantially related to the qualifications, functions, and duties of an insurance producer.

15. Here, Respondent's misdemeanor conviction was for trespass. While the Virginia court records and statements presented at the hearing indicate that Respondent's criminal conduct entailed poor judgment on Respondent's part, they do not reflect conduct that is necessarily directly related to Respondent's qualifications, functions, and duties as a licensed insurance producer. Furthermore, Respondent did eventually report her trespass conviction to the Commissioner 42 days after the November 24, 2020 conviction by uploading a statement and court documents to the National Insurance Producer Registry.

16. For the same reasons, failing to timely report administrative actions taken by other States against a licensee's professional licenses may also deny Agent Services information directly relevant to whether a North Carolina licensee should be allowed to continue to engage in the insurance business in this State. The substance of the California administrative action indicates that Respondent entirely failed to comply with her responsibility to pay costs imposed by a prior California administrative order, while the Washington administrative action indicates that Respondent wholly failed to respond to multiple inquiries from Washington regulators, just as she did here regarding multiple inquiries from Agent Services. It is not uncommon for licensees to claim ignorance or confusion regarding how to report administrative actions from other States to Agent Services. Here, however, the evidence shows that Respondent timely reported multiple administrative actions from other States using the Attachment Warehouse of the National Insurance Producer Registry prior to 2020, but has failed to do so since.

17. Although Agent Services contends that revocation of Respondent's License is warranted under these circumstances, after considering the degree and extent of the harm caused by Respondent's violations, the evidence indicating that Respondent is agreeable to a five-year voluntary surrender of her License, and based on the other evidence received and applicable law, a five-year suspension of Respondent's License is the more appropriate disciplinary action on this record.

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's non-resident North Carolina Insurance Producer's license is hereby **SUSPENDED** for a period of five years from the date of this Order and Final Agency Decision. During this five-year period, Respondent shall not engage in activities requiring a North Carolina insurance producer license.

PLEASE TAKE NOTICE that, pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), Respondent's failure to timely comply with the reporting requirements of N.C. Gen. Stat. §§ 58-2-69 and 58-33-32 regarding criminal prosecutions, criminal convictions, and administrative actions by other States, or Respondent's failure to comply with

any other North Carolina insurance law during the five-year suspension period may result in permanent revocation of Respondent's License.

This 4th day of December, 2022.



Meghan N. Cook
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. § 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

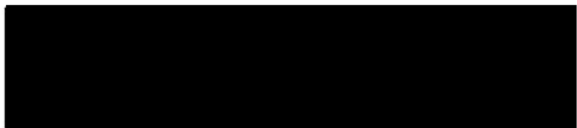
I HEREBY CERTIFY that I have this day served the foregoing **ORDER AND FINAL AGENCY DECISION** by mailing copies of the same via certified U.S. Mail, return receipt requested and via first class U.S. Mail to the Respondent at the address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b);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

Lindsay Marie Lippl
9600 Mercer Ct. Apt. 106
Fredericksburg, VA 22407-2625
(Respondent)

Certified Mail Tracking Number: 70200640000031858026

Nathan D. Childs
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 6th day of December, 2022.



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