

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  
JOSEPH NICKERSON  
(NPN # 71272)

Respondent.

ORDER AND  
FINAL AGENCY DECISION

Docket Number: 2165

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THIS MATTER came on for hearing on Tuesday, February 27, 2024, in Hearing Room #131 the Albemarle Building, 325 North Salisbury Street, Raleigh, North Carolina before the undersigned Hearing Officer, as designated by the North Carolina Commissioner of Insurance (hereinafter "Commissioner"), pursuant to North Carolina General Statute § 58-2-55.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance ("Petitioner" or "Agent Services"), was represented by Assistant Attorney General Anne Goco Kirby. Respondent Joseph Nickerson (hereinafter, "Respondent") did not appear and was not represented by counsel.

Respondent was properly served with the Notice of Administrative Hearing and Petition, perfected on February 5, 2024, via certified mail, as evidenced by the Affidavit of Service, the USPS domestic return receipt and signature card. See Administrative Exhibits 1 and 2.

Jeff Miller, Complaint Analyst for Agent Services, appeared and testified for the Department. Petitioner's Exhibits 1-14 were admitted into evidence.

BASED UPON careful consideration of the testimony and evidence presented at the hearing, and based upon the entire record in this proceeding, 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 (hereinafter "Department") has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents.

2. Respondent currently holds a Non-Resident Producer license issued on June 28, 2019, with authority for Property and Casualty lines of insurance. Respondent's National Producer License Number (NPN) is 71272. *See* Pet. Ex. 3.

3. Jeff Miller testified that on November 17, 2021, Agent Services issued Respondent a written warning via his email address of record, for failing to report the denial of his New York application for an insurance license to the Department. It was noted that this notice was not an administrative action by the Department but put Respondent on notice to report any future regulatory action within thirty days pursuant to N.C. Gen. Stat. § 58-33-32(k). *See* Pet. Ex. 6.

4. Effective April 29, 2022, the California Department of Insurance revoked Respondent's producer license for having been refused a professional license by the State of New York for reasons that should preclude the granting of the license applied for and constitute grounds for the Commissioner to revoke the license of Respondent pursuant to the provisions of Section 1668(f), in conjunction with Section 1738, of the California Insurance Code. *See* Pet. Exs. 4 and 7.

5. Effective September 19, 2022, the Louisiana Department of Insurance revoked Respondent's producer license for having: (a) his non-resident insurance producer license application denied by the state of New York in violation of La. R.S. 22:1554(A)(13), (b) failed to provide the documentation and information as required in violation of La. R.S. 22:1554(A)(14), and (c) failed to report the New York action within thirty (30) days and to submit the required documentation in violation of La. R.S. 22:1563(A) and (C). *See* Pet. Exs. 4 and 8.

6. Effective July 12, 2023, the Wisconsin Department of Insurance entered a Notice of Forfeiture Assessment which required Respondent to pay a fine of \$1,000 within thirty calendar days of the notice for having failed to disclose four (4) administrative actions entered against him by other insurance regulators. *See* Pet. Exs. 4 and 9.

7. Mr. Miller testified that Agent Services checked the National Insurance Producer's Registry (NIPR) attachment warehouse to see if Respondent reporting any of the abovementioned out of state administrative actions, which would be considered an acceptable method of reporting to the Department. Mr. Miller testified that he reviewed the Attachment Warehouse in preparation for this hearing, and no documents relating to California, Louisiana, Wisconsin administrative actions were uploaded by Respondent at any time. *See* Pet. Ex. 5.

8. After being alerted of the Wisconsin regulatory action, Agent Services e-mailed Respondent at his email address of record on August 24, 2023, detailing that



Respondent failed to report this action to the Department within 30 days as required by N.C. Gen. Stat. § 58-33-32(k). Agent Services requested that Respondent provide a written response explaining the Wisconsin regulatory action and provide any documentation of the action to the Department within 10 days. Agent Services also noted that Respondent had also received regulatory actions from California and Louisiana that he also failed to report to the Department within 30 days as required by N.C. Gen. Stat. § 58-33-32(k). *See* Pet. Ex. 11.

9. Respondent failed to respond to the Department. Thus, on September 6, 2023, Agent Services Division sent Respondent a follow up e-mail to his email address of record, again requesting that he provide the requested documents within 10 days. Respondent again failed to respond to the Department. *See* pet. Ex. 12.

10. Effective August 28, 2023, the Wisconsin Department of Insurance entered an order revoking Respondent's resident intermediary agent's license for failing to pay the \$1000 fine. *See* Exs. 4 and 10.

11. On September 21, 2023, Agent Services notified Respondent by e-mail that it had become aware of a second regulatory action from the state of Wisconsin which resulted in his license being revoked. Pursuant to N.C. Gen. Stat. § 58-2-195(a) and 11 NCAC 6A.0402(d)(2), Agent Services requested that Respondent provide a written response explaining the second Wisconsin regulatory action and provide any documentation of the action to the Department within 10 days. Agent Services also noted that Respondent had received prior regulatory actions from Wisconsin, California, and Louisiana that he failed to report to the Department within 30 days as required by N.C. Gen. Stat. § 58-33-32(k). *See* Pet. Ex. 13.

12. Respondent failed to provide requested documents to the Department. By e-mail and letter to Respondent dated September 27, 2023, Agent Services requested that Respondent participate in an informal conference with Agent Services on November 1, 2023 via telephone to discuss the allegations against her producer's license. *See* Pet. Ex. 14.

13. On November 1, 2023, Respondent participated in the scheduled informal conference via telephone, however Agent Services was unable to resolve the administrative issues with Respondent and proceeded to an administrative hearing to address Respondent's numerous violations.

### 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 Hearing and the Department has personal and subject matter jurisdiction in this matter.

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. The report "shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the actions."

4. Respondent failed to report the administrative actions taken by the insurance regulators of the states of California, Louisiana, and Wisconsin to the Department within 30 days of final disposition of such actions in violation of N.C. Gen. Stat. § 58-33-32(k). Despite previously receiving notice via a written warning that such actions were required to be reported to the Department, Respondent did not comply.

5. N.C. Gen. Stat. § 58-33-46(a)(2) states that the Commissioner may place on probation, suspend, or revoke the license of a licensee who has violated any insurance law of this or any other state, violated any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violated any rule of FINRA.

6. Sufficient grounds exist for Respondent's non-resident Producer license suspension or revocation pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) based upon his violation of N.C. Gen. Stat. § 58-33-32(k) by his failure to report the administrative actions taken by the Wisconsin, California, and Louisiana Departments of Insurance within 30 days after final disposition of such administrative actions and based on his violations of Louisiana's insurance laws.

7. N.C. Gen. Stat. § 58-33-46(a)(9) states that the Commissioner may place on probation, suspend, or revoke the license of a licensee for having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other jurisdiction for reasons substantially similar to those listed in this subsection.

8. Sufficient grounds exist for Respondent's non-resident Producer license suspension or revocation pursuant to N.C. Gen. Stat. § 58-33-46(a)(9) for having an insurance producer license revoked by the Wisconsin, California, and Louisiana Departments of Insurance for reasons substantially similar to those listed in N.C. Gen. Stat. § 58-33-46(a)(9).

9. Petitioner failed to provide evidence to support Respondent's failure to report administrative action taken by the Florida Department of Financial Services as alleged in the Petition. As such, this allegation is not a basis for disciplinary action in which the Hearing Officer considered.




10. Respondent has not shown a continuing interest in retaining his non-resident insurance producer license, as evidenced by his failure to report the license revocations received by the Wisconsin, California, and Louisiana Departments of Insurance, despite receiving previous warning by the Department or his absence in the administrative hearing after proper notice was given by the Department.

**ORDER**

Based on the foregoing Findings of Facts and Conclusions of Law, it is ORDERED that Respondent's non-resident producer's license issued by the North Carolina Department of Insurance is hereby REVOKED effective as of the date of the signing of this order.

This the 14<sup>th</sup> day of May, 2024.



Ainslie Benjamin  
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. § 1 A-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, including explicitly stating what exceptions are taken to the decision or procedure and what relief the petitioner seeks, and requires service of the Petition by personal service or by certified mail upon all who were parties of record to the administrative proceedings. 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 **NOTICE OF ADMINISTRATIVE HEARING** by mailing a copy of the same via first class U.S. mail to the licensee at the residential address provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69(b) and (d); and via State Courier to Attorney for Petitioner, addressed as follows:

Joseph Nickerson  
3940 NW 79<sup>th</sup> Ave., Apt 641  
Doral, FL 33166-6681  
(Respondent)

**Certified Mail Tracking #: 7022 2410 0000 9662 6151**

Anne Goco Kirby  
Assistant Attorney General  
N.C. Department of Justice  
Insurance Section  
9001 Mail Service Center  
Raleigh, NC 27699-9001  
(Attorney for Petitioner)

This the 14<sup>th</sup> day of May, 2024.



Elizabeth V. Sullivan  
Paralegal III  
N.C. Department of Insurance  
General Counsel's Office  
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Raleigh, NC 27699-1201