

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)
SERGIO JASSIEL ORTIZ)
NPN# 9251454)

ORDER
AND FINAL
AGENCY DECISION

Respondent.)

Docket Number: 2084

THIS MATTER came on for hearing on August 10, 2022, in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, North Carolina, before the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55.

Rebecca E. Lem, Assistant Attorney General, represented the North Carolina Department of Insurance, Agent Services Division (“Petitioner” or “ASD”) in this matter. Respondent Sergio Jassiel Ortiz (“Respondent”) did not appear at the hearing.

Petitioner’s Exhibits 1 through 10, including all subparts, were admitted into the Record in this matter.

Lisa Webb, a Complaint Analyst, testified for Petitioner in this matter.

Based on the allegations set forth in the Notice of Hearing in this matter, as well as documentary and testimonial evidence introduced 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 enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers.

2. The Notice of Administrative Hearing was properly served on Petitioner pursuant to N.C. Gen. Stat. § 58-2-69(b) and Rule 4 of the North Carolina Rules of Civil Procedure.

3. Respondent is a resident of Florida and holds a Non-Resident Producer License with lines of authority for Life and Accident & Health or Sickness. *See* Pet'r's Ex. 3. Respondent was first licensed in North Carolina on or about January 15, 2008. *Id.*

4. NCDOI has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents. At all relevant times herein, Respondent held a Non-Resident Producer License with lines of authority for Life and Accident & Health or Sickness. *See* Pet'r's Ex. 3. Respondent's National Producer License Number (NPN) is #9251454. *See id.*

5. Lisa Webb is a Complaint Analyst with ASD. Ms. Webb testified that this matter came to ASD's attention in February of 2021 through a report from the Regulatory Information Retrieval System ("RIRS"), which is an automatic notification system through the National Association of Insurance Commissioners ("NAIC"). The RIRS report showed that Respondent had received a Revocation of his license in Washington State dated January 22, 2021, and effective February 8, 2021. *See* Pet'r's Ex. 5.

6. Pursuant to N.C. Gen. Stat. § 58-33-32(k), Respondent is obligated to inform NCDOI about administrative actions in other states within thirty (30) days of the final disposition of the matter, which was January 22, 2021.

7. Ms. Webb first contacted Respondent concerning the Washington administrative action via email dated February 15, 2021. *See* Pet'r's Ex. At that time, Respondent was still with his thirty- (30-) day window within which to report the administrative action to ASD. Ms. Webb received a response from Respondent's email explaining that Respondent was no longer with the company associated with said email address Respondent. *See* Pet'rs' Exs. 7B; 4.

8. On April 19, 2021, Ms. Webb sent an informal conference notice for Tuesday, May 25, 2021, to Respondent via a different email address, *see* Pet'r's Ex. 7D, and Respondent responded promptly. *See* Pet'r's Ex. 7C.

9. By April 19, 2021, Respondent had missed the thirty- (30-) day window to timely report the Washington administrative action.

10. On May 25, 2021, ASD attempted to hold an informal conference with Respondent at the scheduled time. ASD called three different phone numbers, with

Respondent answering at the third phone but stating that he was driving and asking for the informal conference to be postponed. *See* Pet'r's Ex. 9, p. 4.

11. Pursuant to Respondent's request, ASD noticed another informal conference for July 12, 2021. *See* Pet'r's Exs. 7E; Ex. 9.

12. Respondent participated in the informal conference on July 12, 2021, and the parties agreed to execute a voluntary settlement agreement ("VSA") for Respondent's failure to timely report the Washington administrative action. *See* Pet'r's Ex. 9.

13. Following the informal conference, on July 12, 2021, Respondent emailed a copy of the February 8, 2021, Washington administrative action to Ms. Webb. *See* Pet'r's Ex. 7G.

14. On August 16, 2021, Ms. Webb emailed the proposed VSA draft to Respondent for him to sign, and asked Respondent to return the signed VSA and remit the monetary penalty no later than September 13, 2021. *See* Pet'r's Ex. 7H. Respondent answered on August 17, 2021, indicating that he would do so that day. *See id.* However, Respondent never returned a signed VSA, nor did he remit the agreed-upon payment.

15. On November 2, 2021, Ms. Webb sent Respondent another informal conference notice for December 7, 2021, for his failure to report a Louisiana administrative action effective October 13, 2021. *See* Pet'r's Ex. 7J. As Respondent had failed to return the VSA and payment addressing the late reporting of the Washington administrative action, the November 2, 2021, informal conference notice also referenced the Washington administrative action as an additional basis for the informal conference. *See id.*

16. The informal conference notification letter sent to Respondent stated that the date of the conference was December 7, 2021. However, ASD had actually scheduled the informal conference for December 9, 2021, which is the date Ms. Webb referenced in two emails to Respondent reminding him of the informal conference, one sent on November 20, 2021, and another on December 9, 2021. *See* Pet'r's Exs. 7J, 7K. In any event, Respondent did not respond to the informal conference notice letter, nor to any of these emailed reminders.

17. On December 9, 2021, ASD attempted to hold the informal conference by phone on December 9, 2021, and called two different phone numbers for Respondent. *See* Pet'r's Ex. 9. Respondent did not answer the first phone number, and his voicemail inbox was full. For the second phone attempt, an unknown individual answered the phone, stated that Respondent was not available and that

they could not leave a message, and then hung the phone up. *See id.*

18. Respondent never thereafter contacted ASD by phone, email, or otherwise, nor did he report the Louisiana administrative action.

19. Ms. Webb testified that she retrieved copies of the administrative actions rendered against Respondent in the regular course of business, and these were entered into evidence as Petitioner's Exhibits 10A and 10B. The administrative actions revealed the following:

- a. On January 22, 2021, the Insurance Commissioner of the State of Washington entered an Order Revoking License ("Washington Revocation Order") against the Respondent. The Washington Revocation Order revoked Respondent's nonresident insurance producer license effective February 8, 2021, for failing to respond to an inquiry by the Insurance Commissioner, representing a business entity insurance producer without being affiliated, selling unauthorized insurance, and failing to disclose all commissions and fees charged to a Washington consumer in violation of Washington insurance laws and regulations. *See Pet'r's Ex. 10A.*
- b. On August 24, 2021, the Louisiana Department of Insurance entered a Notice of Revocation Order ("Louisiana Revocation Order") against Respondent revoking Respondent's nonresident insurance producer license effective thirty (30) days from the entry of the order. The Louisiana Revocation Order revoked Respondent's license for violating Louisiana insurance laws by having his Washington nonresident producer license revoked, failing to provide documentation and information requested by the Louisiana Department of Insurance, and failing to report the Washington Revocation Order within thirty (30) days and submit the required documentation with such report. *See Pet'r's Ex. 10B.*

20. Petitioner requested that Respondent's licenses be revoked pursuant to N.C. Gen. Stat. §§ 58-33-32(k) and 58-33-46(a)(2), noting that Respondent failed to return an agreed-upon VSA and has subsequently failed respond to or provide documentation to ASD and has made no attempt to communicate with ASD concerning his license.

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. The Notice of Administrative Hearing was properly served on Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure.

3. The evidence and testimony presented at the hearing supports the allegations contained in the Notice of Hearing and Petition.

4. Respondent's failure to report the administrative action against his Washington and Louisiana insurance licenses to ASD within thirty (30) days of the effective date of that action are violations of N.C. Gen. Stat. § 58-33-32(k).

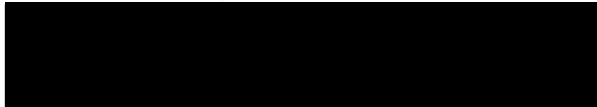
5. N.C. Gen. Stat. § 58-33-46(a)(2) empowers the Commissioner to suspend, revoke, or refuse to renew any license issued under this Article for violating any insurance law of this or any other state. Respondent's license is therefore subject to suspension or revocation under N.C. Gen. Stat. § 58-33-46(a)(2) for his failure to report the Washington and Louisiana administrative actions to ASD within thirty (30) days of the effective date of the action, in violation of N.C. Gen. Stat. § 58-33-32(k).

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ordered that Respondent's licenses issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

This the 26th day of September, 2022.



Erin Gibbs
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 thirty (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: 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 a copy of the same via certified U.S. Mail, return receipt requested; 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 to Attorney for Petitioner, addressed as follows:

SERGIO ORTIZ
8351 SW 39TH CT
DAVIE, FL 33328-2903
(Respondent)

Certified Mail Tracking Number: 70200640000031857968

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

This the 27th day of September, 2022.



Mary Faulkner
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