

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA

BEFORE THE COMMISSIONER
OF INSURANCE

COUNTY OF WAKE

IN THE MATTER OF
THE LICENSURE OF
MAXTON RADFORD

ORDER AND FINAL AGENCY
DECISION
Docket Number 1733

THIS matter was heard on Wednesday, August 12, 2015 by the undersigned Hearing Officer, designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. §58-2-55, pursuant to a Notice of Hearing that was duly issued and served.

The Agent Services Division ("Agent Services") of the North Carolina Department of Insurance ("Department") was present at the hearing, represented by Special Deputy Attorney General David W. Boone.

Petitioner, Maxton R. Radford ("Petitioner") was present and testified at the hearing. Petitioner was not represented by Counsel.

Agent Services offered into evidence Exhibits 1 through 13, and said documents were admitted into evidence.

Petitioner offered no exhibits into evidence.

Any finding of fact contained in this final agency decision and order that also constitutes a conclusion of law is hereby adopted as a conclusion of law. Likewise, any conclusion of law contained in this final agency decision and order that also constitutes a finding of fact is hereby adopted as a finding of fact.

After careful consideration of the evidence and arguments presented, and based on the record as a whole, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The Notice of Administrative Hearing was properly served on Petitioner on October 3, 2014.
2. Petitioner applied for a license as a resident insurance agent and producer in the lines of

Property and Casualty insurance on May 7, 2013.

3. Petitioner was previously licensed by the Department as a resident Property and Casualty agent and as a resident Life and Health agent from December 12, 1998 until December 31, 2006.
4. In 2005, Petitioner was a duly appointed Nationwide insurance agent working as an associate agent in the Ronald G. Phelps agency in Wilmington, North Carolina. Nationwide conducted an agency premium audit at the Phelps agency on August 18, 2005.
5. An audit report was prepared by the Nationwide auditor and the report summarized in part that: "Former associate agent Max Radford was accepting payments from customers and remitting an amount less than the total amount received." The auditor identified ten accounts handled by Petitioner that had unremitted premiums totaling \$2401.51. (Exhibit 13) One of those accounts had an address which was the address of Petitioner.
6. Petitioner testified that after being confronted with the allegations, he told Ron Phelps that he would leave the agency. Petitioner made copies of the list of all of his customers and of all of Ron Phelps' customers and took the list with him without permission.
7. Nationwide notified Agent Services by letter dated September 1, 2005 that Petitioner's appointments were terminated for cause "due to misappropriation of funds."
8. In a letter dated November 29, 2005, Agent Services requested Petitioner to, within 10 days, provide a written notarized response along with any documentation regarding the allegations of Nationwide. Petitioner never responded to those allegations prior to his application for a new license.
9. On or about December 31, 2006, Petitioner's insurance license expired due to his failure to complete required continuing education. Petitioner did not contact Agent Services again until he applied for a new license on May 7, 2013.
10. Agent Services denied Petitioner's Application for a new license by letter dated June 13, 2013. (Exhibit 7) A denial review conference was held with Petitioner on July 11, 2013.
11. Following the denial review conference, Agent Services upheld its initial denial of Petitioner's Application on July 29, 2013.

Conclusions of Law

1. This matter is properly before the Commissioner. The Commissioner has jurisdiction over the parties and the subject matter pursuant to N.C. Gen. Stat. §§ 58-33-46, 150B-38,

and 150B-40; 11 NCAC 1.0401 et seq.; and other applicable statutes and regulations.

2. Petitioner was properly served with the Notice of Administrative Hearing.
3. Pursuant to N.C. Gen. Stat. § 58-33-30(g), an application may be denied for any reason for which a license may be suspended or revoked or not renewed under N.C. Gen. Stat. § 58-33-46.
4. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(8), the Commissioner may deny, suspend, revoke or refuse to renew any license if the licensee used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.
5. Petitioner's acceptance of payments from his customers and remitting an amount less than the total amount received to Nationwide are violations of N.C. Gen. Stat. § 58-33-46(a)(8) and the violations are sufficient to support denial of Petitioner's Application.
6. The Hearing Officer finds that Petitioner's Application should be denied.
7. The Hearing Officer finds that Petitioner's Application was properly denied by the Agent Services Division of the Department.

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

Order

It is hereby ordered that the decision of the Agent Services Division to deny the Property and Casualty resident agent/producer license application of Petitioner Maxton Radford is affirmed and the Property and Casualty resident agent/producer license application of Petitioner Maxton Radford is denied.

This 10th day of September 2015.



William K. Hale, Hearing Officer
North Carolina Department of Insurance


APPEAL RIGHTS: This Order may be appealed to Superior Court within 30 days of receipt, as set forth in the General Statutes of North Carolina.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I have this day served a copy of the foregoing Order and Final Agency Decision by mailing a copy of same by certified United States mail, return receipt requested, in a first class postage prepaid envelope addressed to the Petitioner as follows:

Maxton Radford
102 Cromwell Circle
Wilmington, N.C. 28409

This the 11th day of September, 2015.



David W. Boone
North Carolina State Bar No. 8648
Special Deputy Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, N.C. 27602-0629
Tel.: 919-716-6610