

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
MICHAEL SAUNDERS
(NPN # 16129666)

Respondent.

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ORDER AND
FINAL AGENCY DECISION

Docket Number: 2192

THIS MATTER came on for hearing on July 10, 2024, in Hearing Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, North Carolina before the undersigned Hearing Officer, as designated by the North Carolina Commissioner of Insurance ("Commissioner") under N.C. Gen. Stat. § 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 Nathan Childs. Respondent Michael Saunders ("Respondent") did not appear and was not represented by counsel 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 was 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.

Agent Services' Exhibits 1-7, 8 (a)-(f), and 9-12, were admitted into evidence. Agent Services withdrew those exhibits pre-marked as Exhibits 8(g) and 13, and they were not admitted into evidence or considered.

Tommy Walls, Senior Complaint Analyst, appeared and testified on behalf of Agent Services.

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 and Conclusions of Law:

FINDINGS OF FACT

1. Agent Services is a division of the North Carolina Department of Insurance ("NCDOI"), which is a state agency responsible, in accordance with Chapter 58 of the North Carolina General Statutes, for enforcement of insurance laws and regulating and licensing insurance producers.

2. Respondent currently holds an active non-resident North Carolina insurance producer license with lines of authority in Accident & Health or Sickness and Life ("License"). Respondent's License was first issued on July 5, 2012. Respondent is a resident of Florida. *See* Pet'r's Ex. 3.

3. Service of the Notice of Administrative Hearing providing Respondent with due notice of the July 10, 2024 hearing was deemed perfected by first class U.S. Mail on June 1, 2024 by operation of N.C. Gen. Stat. § 58-2-69(e), as shown by the Affidavit of Service admitted into evidence at the hearing. *See* Pet'r's Ex. 2.

4. Tommy Walls is a Senior Complaint Analyst with Agent Services. Among his other duties, he handles licensure investigations of North Carolina insurance producers.

5. In or around mid-April 2020, Agent Services became aware, via a report from the Regulatory Information Retrieval System ("RIRS"), which is an automatic notification system through the National Association of Insurance Commissioners ("NAIC"), that Respondent had received an adverse administrative action in Nebraska, effective April 16, 2020. *See* Pet'r's Exs. 5 and 7.

6. The RIRS report revealed that, effective April 16, 2020, the Nebraska Department of Insurance imposed a fine of \$500 on Respondent for failing to respond to an inquiry addressing a complaint lodged against Respondent by a Nebraska consumer. *See* Pet'r's Ex. 5.

7. While this matter was originally assigned in April 2020 to a Complaint Analyst for Agent Services named Lisa Webb, Ms. Webb left her position with Agent Services in November 2022. After Ms. Webb's departure, Mr. Walls took over the instant matter for Agent Services in December 2022. *See* Pet'r's Ex. 7.

8. The Nebraska Department of Insurance entered its *Findings of Fact, Conclusions of Law, Recommended Order and Order* on March 18, 2020 finding that Respondent had failed to respond to a follow-up inquiry regarding a consumer complaint, that the Nebraska Department of Insurance maintained disciplinary jurisdiction over Respondent even though Respondent's Nebraska license expired on February 18, 2018, and that the Nebraska Department of Insurance was authorized to impose a \$500 fine on Respondent due to Respondent's failure to respond to a legitimate Department inquiry, in violation of Nebraska law. Accordingly, the March

18, 2020 Nebraska administrative action required Respondent to pay the \$500 fine within 90 days of the issuance of the Order. *See* Pet'r's Ex. 10.

9. On April 20, 2020, Ms. Webb emailed Respondent at his electronic address of record requesting that he produce documentation and a written statement regarding the Nebraska administrative action by April 30, 2020. *See* Pet'r's Exs. 7 and 8A.

10. On May 7, 2020, Ms. Webb sent a follow-up letter to Respondent directed to Respondent's residence address of record noting that Respondent had failed to provide the documents and written statement requested in the April 20, 2020 email and providing notice that unless the documents and statement were received within 10 days from the date of receipt of the email, Agent Services would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195. Respondent did not provide the documentation and written statement as requested. *See* Pet'r's Exs. 7 and 8B.

11. Respondent did not report the March 18, 2020 Nebraska administrative action to the Commissioner within thirty days after the final disposition of the matter as required by N.C. Gen. Stat. § 58-33-32(k).

12. On December 18, 2020, Agent Services received a RIRS report that, effective December 26, 2020, the Illinois Department of Insurance had taken an administrative action reinstating Respondent's Illinois insurance producer license. *See* Pet'r's Exs. 5 and 7.

13. Respondent's Illinois non-resident insurance producer license had been suspended effective May 28, 2014 because Respondent was more than 30 days delinquent in complying with a child support order in the amount of \$17,257.29 through January 31, 2013, in violation of Illinois law. The Illinois Department of Insurance entered the *Order of Suspension* on April 28, 2014. *See* Pet'r's Ex. 9.

14. On December 16, 2020, Illinois entered an *Order Lifting Suspension* indicating that the Illinois Department of Insurance had received notice on December 15, 2020 that Respondent was compliant with his child support obligations. The December 16, 2020 Illinois administrative action lifted the suspension of Respondent's Illinois insurance producer license. *See* Pet'r's Ex. 11.

15. Respondent did not report the December 16, 2020 Illinois administrative action to the Commissioner within thirty days after the final disposition of the matter as required by N.C. Gen. Stat. § 58-33-32(k).

16. On May 11, 2021, Ms. Webb emailed Respondent at his electronic address of record advising that Agent Services wished to speak with Respondent

about the Nebraska and Illinois administrative actions at 2:00 p.m. on June 24, 2021. Agent Services received no response from Respondent to the May 11, 2021 email. See Pet'r's Ex. 8C.

17. At 9:56 a.m. on June 24, 2021, Ms. Webb emailed Respondent at his electronic address of record reminding him of the scheduled phone conference later that day and asking him to confirm the phone number that Agent Services should use to reach him. See Pet'r's Ex. 8D.

18. Ms. Webb was unable to reach Respondent on June 24, 2021 at 2:00 p.m. for the scheduled phone conference. However, Respondent called back later that day and said that he did not have time for the conference because "he is on dialysis 3 times a week[.]" Respondent also provided an updated email address for Agent Service to use to contact him. Ms. Webb advised Respondent that she would reschedule the conference for a later date. See Pet'r's Ex. 7.

19. Ms. Webb rescheduled the conference to discuss the Nebraska and Illinois administrative actions to occur at 2:00 p.m. on November 3, 2021. Ms. Webb emailed Respondent notice of the date and time of the conference on September 30, 2021 and called and left Respondent a message with the conference information on November 1, 2021. See Pet'r's Exs. 7 and 8E.

20. On November 2, 2021, Ms. Webb emailed Respondent at his updated email address to advise that it was necessary for Agent Services to reschedule the conference from November 3, 2021 to November 8, 2021 "due to unforeseen circumstances..." See Pet'r's Exs. 7 and 8E.

21. At the scheduled time on November 8, 2021, Ms. Webb and Agent Services' Deputy Commissioner Joe Wall attempted to contact Respondent by phone for the scheduled phone conference. Mr. Wall left a voice mail message for Respondent to return their call, but Respondent failed to do so. See Pet'r's Ex. 7.

22. Effective April 26, 2023, the Indiana Department of Insurance took administrative action against Respondent by entering a *Preliminary Administrative Order and Notice of License Denial* on April 26, 2023. Indiana denied Respondent's January 4, 2023 application for an Indiana non-resident producer license because Respondent failed to disclose administrative actions taken against him by other states in his license application, as required by Indiana law. Agent Services received a RIRS report regarding the Indiana administrative action on April 26, 2023. See Pet'r's Exs. 5, 7, and 12.

23. Respondent did not report the April 26, 2023 Indiana administrative action to the Commissioner within thirty days after the final disposition of the matter as required by N.C. Gen. Stat. § 58-33-32(k).

24. On July 20, 2023, Senior Complaint Analyst Walls advised Respondent by email that Respondent failed to timely report the Indiana administrative action to the Commissioner. *See* Pet'r's Ex. 8F.

25. As of the date of the July 10, 2024 hearing in this matter, Respondent has not reported the March 18, 2020 Nebraska administrative action, December 16, 2020 Illinois administrative action, or the April 16, 2023 Indiana administrative action to Agent Services or uploaded the action to the National Insurance Producer Registry's (NIPR) attachment warehouse. *See* Pet'r's Exs. 6 and 7.

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 July 10, 2024 hearing or retain counsel to represent him at the hearing.

3. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one basis for the revocation of a license issued by NCDOI is violation of the insurance laws of North Carolina or any other State.

4. 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." The statute specifies that "[t]he 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. Agent Services' evidence shows that Respondent was subject to administrative actions taken against his licenses by the states of Nebraska, Illinois, and Indiana and the undersigned finds that Respondent was required to timely report these actions to the Commissioner by N.C. Gen. Stat. § 58-33-32(k).

6. Agent Services' evidence establishes that Respondent failed to report the March 18, 2020 Nebraska administrative action, the December 16, 2020 Illinois administrative action, or the April 16, 2023 Indiana administrative action to the Commissioner within thirty days of the actions' respective final dispositions, as mandated by N.C. Gen. Stat. § 58-33-32(k).

7. By failing to timely report the Nebraska, Illinois, and Indiana administrative action within thirty days of their respective final dispositions, Respondent violated a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

8. Agent Services' evidence also shows that Respondent failed to respond to written requests from Agent Services for documents and other information related to Agent Services' licensure investigation, despite Respondent's obligations to provide information to Agent Services "on demand" under N.C. Gen. Stat. §§ 58-2-185 and 58-2-195.

9. Failure to provide documentation and information regarding an administrative action taken by another state is a serious offense that deprives NCDOI of information directly relevant to its evaluation of whether a licensee should continue to engage in the insurance business in North Carolina. To help Agent Services supervise insurance producer licensees and protect North Carolina insurance consumers, N.C. Gen. Stat. § 58-33-32(k) requires that licensees provide a copy of "the order or consent order and other information or documents filed in the proceeding necessary to describe the action" with the licensee's report to Agent Services. Because administrative actions can be reported online to nearly all state regulators at one time using the NIPR attachment warehouse, compliance with this provision is relatively quick and simple. Nevertheless, as of the date of the hearing in this matter, Respondent had not sent copies of Nebraska's March 18, 2020 *Findings of Fact, Conclusions of Law, Recommended Order and Order*, Illinois' December 16, 2020 *Order Lifting Suspension*, or Indiana's April 26, 2023 *Preliminary Administrative Order and Notice of License Denial* to Agent Services or uploaded them to the NIPR attachment warehouse.

10. Respondent's offenses here are further aggravated by Agent Services' evidence that Respondent failed to respond to inquiries sent on April 21, 2020 and May 7, 2020, directed to Respondent's electronic and mailing addresses of record, seeking information and documents regarding the Nebraska administrative action, in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195.

11. Based on the evidence received and the applicable law, the undersigned Hearing Officer concludes that Respondent's North Carolina non-resident insurance producer should be revoked under N.C. Gen. Stat. §§ 58-33-46(a)(2).

BASED UPON the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ORDERED that Respondent's non-resident North Carolina Insurance Producer's license is hereby **REVOKED**.

This 20th day of November, 2024.



Amy L. Funderburk
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: 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 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:

Michael Saunders
1541 SE 23rd Avenue Apt 2
Pompano Beach, FL 33062-7532
(Respondent)

Certified Mail Tracking Number: 9589 0710 5270 0742 5894 40

Michael Saunders
511 N. Colbert Ave.
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Nathan D. Childs
Assistant Attorney General
N.C. Department of Justice
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Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 20th day of November, 2024.



Kimberly W. Pearce, NCCP
Clerk of Court for Administrative Hearings
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