

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 )  
DANIEL SCALA )  
(NPN # 18378722) )

Respondent. )

ORDER AND  
FINAL AGENCY DECISION

Docket Number: 2127

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**THIS MATTER** came on for hearing on Tuesday, October 16, 2023, before the undersigned Hearing Officer, as designated by the Commissioner of Insurance (“Commissioner”) pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Todd H. Neal was present and represented the Agent Services Division of the North Carolina Department of Insurance (“Petitioner” or “Agent Services”). Respondent Daniel Scala did not appear.

Petitioner’s Exhibits 1, 1a, 2, 2.1, 3, 3.1, 3.2, 3.3, and 4 through 19 were admitted into evidence.

Gwen Harris, Complaint Analyst for the Department’s Agent Services Division, appeared and testified for the Department.

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 (“Department” or “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. Respondent has held a nonresident producer's license with lines of authority for Accident & Health or Sickness and Medicare Supplement and Long-Term Care since 2017. *See* Pet'r's Ex. 3

3. Respondent's address on file Petitioner is 729 SW 2nd Avenue, Pompano Beach, Florida, 33060. This address was listed as Respondent's residence, business, and mailing address. *See* Pet'r's Ex. 3.

4. Licensees are required, pursuant to N.C. Gen. Stat § 58-2-69(b), to notify the Commissioner in writing of any change of the licensee's residential or e-mail address within ten business days after the licensee moves into the licensee's new residence or obtains a different e-mail address.

5. Based on a report from the National Association of Insurance Commissioners, Respondent had also listed 729 SW 2nd Avenue, Pompano Beach, Florida, 33060, as his residence, business, and mailing address for his home state of Florida. *See* Pet'r's Ex. 3.1.

6. On March 22, 2023, Respondent updated his mailing address for the State of Nebraska to 1835 S Perimeter Road, Fort Lauderdale, Florida, 33309. His residential address for Nebraska was still listed as 729 SW 2nd Avenue, Pompano Beach, Florida, 33060, and as recently as July 21, 2023, Respondent updated his business address for the State of Kansas to 729 SW 2nd Avenue, Pompano Beach, Florida, 33060. *See id.*

7. Correspondence related to this matter were sent to Respondent's Pompano Beach address and were initially delivered but eventually returned to sender days later. *See* Pet'r's Ex. 2.

8. Petitioner then sent copies of the Petition for Administrative Hearing, the Notice of Administrative Hearing, and the Scheduling Order in this matter to both the Pompano Beach address and the Fort Lauderdale address via FedEx. *See* Pet'r's Ex. 2. The Petition, Notice, and Scheduling Order were successfully delivered to both addresses on September 13, 2023. *See id.*

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

10. On July 5, 2022, the Kansas Department of Insurance denied Respondent's application for licensure ("First Kansas Denial"). *See* Pet'r's Ex. 8. The



denial was based on Respondent's failure to provide the required documentation related to the disclosure on his application that he had "been convicted of a misdemeanor, had a judgment deferred, or [was] currently charged with committing a misdemeanor." *Id.* Respondent further failed to respond to a May 26, 2022, letter from the Kansas Department of Insurance asking for the required documentation. *See id.*

11. The First Kansas Denial specifically states that, "This denial constitutes an administrative action which you will be required to disclose on all future licensing applications. You may also be required to report this administrative action to any other state where you are currently licensed, in accordance with the requirements of each state." *Id.*

12. N.C. Gen. Stat. § 58-33-32(k) requires licensees to report administrative actions to Petitioner within thirty days of the effective date of the action. This can be accomplished by reporting the administrative action directly to Petitioner or by uploading the required documentation to the National Insurance Producer Registry ("NIPR") Attachment Warehouse.

13. On or around August 16, 2022, the First Kansas Denial was uploaded to the Regulatory Information Retrieval System ("RIRS"), a system that is accessible via the National Association of Insurance Commissioners ("NAIC"). *See Pet'r's Ex. 7.*

14. Agent Services became aware of the First Kansas Denial through RIRS, and Ms. Gwen Harris was assigned to investigate.

15. On August 24, 2022, Ms. Harris e-mailed Respondent at his email addresses of record and mailed a letter to his Pompano Beach address, alerting him that he had failed to report the First Kansas Denial and requesting a written response and relevant documentation within ten days. *See Pet'r's Exs. 10 and 11.*

16. After receiving no response, on September 7, 2022, Ms. Harris contacted Respondent requesting a response within ten days and informing Respondent that a failure to respond could result in Agent Services taking administrative action against his license. *See Pet'r's Ex. 12.*

17. After receiving no response to the September 7, 2022, correspondence, Ms. Harris sent a letter to Respondent on September 29, 2022, via e-mail and U.S. mail, informing Respondent that he was in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k) and requesting his participation in an informal conference via telephone. Said informal conference was scheduled for November 17, 2022, at 11:30 A.M. *See Pet'r's Ex. 13.*



18. On November 17, 2022, Agent Services called Respondent at the appointed time but received no answer. Agent Services left a voicemail asking for Respondent asking him to call back, but Respondent did not return the call.

19. However, on or about November 14, 2022, Respondent did upload a letter to the National Insurance Producer Registry Attachment Warehouse explaining the reasons behind the First Kansas Denial. *See* Pet'r's Ex. 9. Respondent still neglected to upload a copy of the First Kansas Denial, which N.C. Gen. Stat. § 58-33-32(k) specifically requires as part of the duty to report an out-of-state administrative action to Petitioner.

20. On January 12, 2023, the Louisiana Department of Insurance issued an order revoking Respondent's Louisiana producer's license ("Louisiana Revocation") for having failed to report the First Kansas Denial and for failing to respond to requests for documentation from the Louisiana Department of Insurance, both violations of the Louisiana Code. *See* Petr's' Ex. 14. The Louisiana Revocation went into effect on February 2, 2023. *See id.*

21. On February 24, 2023, the Kansas Department of Insurance issued an order denying the Respondent's January 25, 2023, application for renewal of his Kansas producer's license ("Second Kansas Denial"). *See* Pet'r's Ex. 15. The Second Kansas Denial was based on Respondent's failure to disclose the First Kansas Denial and for having indicated on his application that he had "been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to the department? . . ." *See id.*

22. The Second Kansas Denial determined that Respondent had violated Kansas law by failing to disclose the First Kansas Denial and by "provid[ing] incorrect, misleading, incomplete or untrue information in the license application." *See id.*

23. On April 5, 2023, the State of Alaska Department of Commerce, Community and Economic Development, Division of Insurance ("Alaska Division of Insurance"), issued an order, effective that day, denying Respondent's application for renewal of his Alaska license ("Alaska Denial"). Pet'r's Ex. 16.

24. The Alaska Denial was based on Respondent's application declaring the statements therein to be true under penalty of perjury, while also falsely indicating that he had no administrative actions to report. In fact, Respondent had not properly reported the First Kansas Denial. *See id.*



25. Respondent was offered the opportunity to withdraw his application but failed to do so. *Id.* Accordingly, the Alaska Division Insurance found that Respondent was “untrustworthy, incompetent, or . . . ha[d] not established to the director that . . . [he was otherwise] qualified . . .” and for not being “a trustworthy person.” *See id.*

26. In or around early May 2023, Ms. Harris was alerted to the Second Kansas Denial, the Louisiana Revocation, and the Alaska Denial.

27. On May 2, 2023, Ms. Harris contacted Respondent via email requesting documentation about the Second Kansas Denial. *See Pet'r's Ex. 17.* On May 4, 2023, Ms. Harris contacted Respondent via email and U.S. mail requesting a written response and documentation of the Second Kansas Denial, the Louisiana Revocation, and the Alaska Denial. *See Pet'r's Exs. 18 and 19.* The letter also scheduled a second informal conference for May 17, 2023, at 12:30 P.M. *See Petr's' Ex. 19.*

28. On May 17, 2023, Agent Services called Respondent at the appointed time but received no answer. Agent Services left a voicemail asking for Respondent asking him to call back, but Respondent did not return the call.

29. To date, Respondent has failed to provide Petitioner with a copy of the First Kansas Denial, the Second Kansas Denial, the Louisiana Revocation, or the Alaksa Denial.

### 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. Pursuant to N.C. Gen. Stat. § 58-33-32(k), Respondent was required to report to Petitioner the First Kansas Denial, the Second Kansas Denial, the Louisiana Revocation, and the Alaska Denial within thirty days of the effective date of those actions. Accordingly, Respondent's failure to report to Agent Services the First Kansas Denial, the Second Kansas Denial, the Louisiana Revocation, and the Alaska Denial constitutes violations of N.C. Gen. Stat. § 58-33-32(k).

4. N.C. Gen. Stat. § 58-33-46(a)(2) authorizes the Commissioner to “suspend, revoke, or refuse to renew any license” issued under Article 33 of Chapter 58 of the North Carolina General Statutes for violating any insurance law of this or any other state.

5. N.C. Gen. Stat. § 58-33-46(a)(9) further authorizes the Commissioner to “place on probation, suspend, revoke, or refuse to renew” any license for the licensee’s “having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other jurisdiction for reasons substantially similar to those listed in [N.C. Gen. Stat. § 58-33-46(a)].”

6. The Second Kansas Denial was based in part on Respondent having “provided incorrect, misleading, incomplete or untrue information in the license application.” See Pet’r’s Ex. 14. This is substantially similar to N.C. Gen. Stat. § 58-33-46(a)(1), which provides for the revocation of a license where the licensee has “Provid[ed] materially incorrect, misleading, incomplete, or materially untrue information in the license application.”

7. The Alaska Denial was based in part on Respondent being found by Director of the Alaska Division of Insurance to be “untrustworthy, incompetent” or having “not established to the satisfaction of the director that . . . [he was otherwise] qualified” under the pertinent statutes. See Pet’r’s Ex. 16. This basis for the Alaska Denial is substantially similar to N.C. Gen. Stat. § 58-33-46(a)(8), which allows for the revocation of a license where a licensee has “Us[ed] fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.”

8. Respondent’s nonresident producer’s license, therefore, is subject to revocation pursuant to N.C. Gen. Stat. § 58-33-46(a)(2) for violating the insurance laws of Kansas, Louisiana, and Alaska, and for his violation of N.C. Gen. Stat. § 58-33-32(k).

9. Additionally, Respondent’s nonresident producer’s license is subject to revocation pursuant to N.C. Gen. Stat. § 58-33-46(a)(9) for having applications denied for reasons substantially similar to the grounds for revocation listed in N.C. Gen. Stat. §§ 58-33-46(a)(1) and 58-33-46(a)(8).



**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 30<sup>th</sup> day of November, 2023.



Erin E. 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 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 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:

Daniel Scala  
729 SW 2<sup>nd</sup> Avenue  
Pompano Beach, FL 33060  
*(Respondent)*

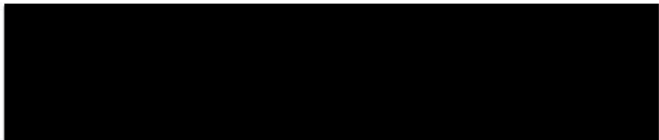
**Certified Mail Tracking Number: 70222410000096626533**

Daniel Scala  
1835 S Perimeter Road  
Fort Lauderdale, FL 33309  
*(Respondent)*

**Certified Mail Tracking Number: 70222410000096626526**

Todd H. Neal  
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*(Attorney for Petitioner)*

This the 30<sup>th</sup> day of November, 2023.



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