



## 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 Property and Casualty ("License"). Respondent's License was first issued on April 29, 2021. Respondent is a resident of Texas. 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 perfected on June 1, 2024 by delivery by certified mail, return receipt requested, addressed to Respondent at the residence address provided to Agent Services by Respondent, as shown by the Affidavit of Service and Affidavit of Nathan D. Childs admitted into evidence at the hearing. See Pet'r's Exs. 2A and 2B.

4. Lindsay Melgarejo is a Complaint Analyst with Agent Services. Among her other duties, she handles licensure investigations of North Carolina insurance producers.

5. In or around mid-March 2023, 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 received an adverse administrative action in Kansas, effective December 1, 2022. See Pet'r's Exs. 5 and 9.

6. The RIRS report revealed that, effective December 1, 2022, the Kansas Department of Insurance denied Respondent's application for licensure because Respondent failed to respond to an inquiry. See Pet'r's Ex. 5.

7. The Kansas Insurance Department entered its *Decision on License Application* on December 1, 2022 finding that Respondent failed to respond to a follow-up inquiry regarding Respondent's response on his application that he had been previously convicted of a misdemeanor or was currently charged with committing a misdemeanor, as required by Kansas law. Accordingly, the December 1, 2022 Kansas administrative action denied Respondent's July 20, 2022 application for a nonresident insurance producer license. See Pet'r's Ex. 11.

8. Respondent did not report the December 1, 2022 Kansas 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).



9. On March 17, 2023, Ms. Melgarejo was assigned to investigate the Kansas administrative action. Ms. Melgarejo emailed Respondent at his electronic address of record and mailed a letter to his then-residence address of record requesting that Respondent produce documentation and a written statement regarding the Kansas administrative action by March 27, 2023. *See* Pet'r's Exs. 9 and 10A.

10. On March 28, 2023, Ms. Melgarejo sent a follow-up email and letter to Respondent noting that Respondent had failed to provide the documents and written statement requested in the March 17, 2020 email and letter 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. That same day, Ms. Melgarejo received a response from Amy Eager of SelectQuote Insurance Services' Agent Licensing asking Ms. Melgarejo to resend the email attachment and a response from Brenda Gonzalez of Kemper Property & Casualty stating that Respondent was no longer employed by Infinity Insurance. Respondent did not provide the documentation and written statement as requested. *See* Pet'r's Exs. 9, 10B, and 10C.

11. Having not received a response from Respondent, Ms. Melgarejo emailed and mailed correspondence to Respondent at his addresses of record on May 8, 2023 advising that Agent Services wished to speak with Respondent about the Kansas administrative action at 2:00 p.m. on June 6, 2023. Agent Services received no response from Respondent to the May 8, 2023 email. *See* Pet'r's Exs. 9 and 10D.

12. On June 6, 2023, Ms. Melgarejo and Compliance Section Supervisor Nadine Scott contacted Respondent via telephone to discuss his failure to report the Kansas administrative action. Respondent indicated that the email address and residence mailing address that he had previously provided Agent Services were no longer valid, and he orally provided updated contact addresses. Respondent stated that he wished to surrender his License. That afternoon, Ms. Melgarejo sent an email to the new email address provided by Respondent advising Respondent to update his contact information in writing and attaching a voluntary surrender form for Respondent's signature. *See* Pet'r's Exs. 9 and 10E.

13. Having not received the executed voluntary surrender form from Respondent, Ms. Melgarejo sent a follow-up email to Respondent on June 20, 2023 stating that if the signed surrender was not received that day, Agent Services would look to schedule an administrative hearing. *See* Pet'r's Ex. 9 and 10F.

14. On or about October 26, 2023, Agent Services received a RIRS report that, effective September 18, 2023, the Louisiana Department of Insurance had revoked Respondent's nonresident insurance producer license due to Respondent's

failure to report an administrative action from another state and failure to respond to inquiries, in violation of Louisiana law. *See* Pet'r's Ex. 5.

15. On September 6, 2023, the Louisiana Department of Insurance issued a *Notice of Revocation* revoking Respondent's Louisiana nonresident insurance producer license on the grounds that Respondent failed to report the Kansas administrative action within thirty days, as required by Louisiana law, and that Respondent failed to respond to correspondence from the Louisiana Department of Insurance inquiring about the Kansas action, in violation of Louisiana law. According to the September 6, 2023 Louisiana administrative action, Respondent's Louisiana license was revoked effective September 16, 2024, ten days from the issuance of the Notice. *See* Pet'r's Ex. 12.

16. Respondent did not report the September 6, 2023 Louisiana 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).

17. To comply with the reporting requirements of N.C. Gen. Stat. § 58-33-32(k), North Carolina licensees may report administrative actions taken by other states to the Commissioner by either directly providing notice and a copy of the action to the North Carolina Department of Insurance or by uploading a copy of the administrative action to the attachment warehouse of the National Insurance Producer Registry (NIPR). As of the July 10, 2024 hearing in this matter, two documents had been uploaded to the NIPR attachment warehouse on Respondent's behalf: an August 31, 2022 letter from the Hidalgo County Community Supervision & Corrections Department relating to Respondent's misdemeanor driving while intoxicated convictions in Texas and a March 6, 2024 Georgia Office of Commissioner of Insurance and Fire Safety Illegal Immigration Reform and Enforcement Act Form. Neither document addresses the December 1, 2022 Kansas administrative action or the September 6, 2023 Louisiana administrative action. *See* Pet'r's Exs. 6 - 8.

### 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 Kansas and Louisiana 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 December 1, 2022 Kansas administrative action and the September 6, 2023 Louisiana 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 Kansas and Louisiana 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 NCDOL 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 Kansas’ December 1, 2022 *Decision on License Application*, or Louisiana’s September 6, 2023 *Notice of Revocation* 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 March 17, 2023 and

March 28, 2023, directed to Respondent's electronic and mailing addresses of record, seeking information and documents regarding the Kansas 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 20<sup>th</sup> day of November, 2024.



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Amy 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 addresses 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:

Luis Alberto Sena  
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(Respondent)


Certified Mail Tracking Number: 9589 0710 5270 0742 5894 26

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(Attorney for Petitioner)

This 20<sup>th</sup> day of November, 2024.



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