

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
DAVID SHANE SIMMONS
(NPN 7579491)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2344

THIS MATTER was heard on January 22, 2026 by the undersigned Hearing Officer, as designated by the North Carolina Commissioner of Insurance (“Commissioner”) pursuant to N. C. Gen. Stat. § 58-2-55 and other applicable statutes and regulations. The administrative hearing was held in the North Carolina Department of Insurance’s Hearing Room, Room # 211, located at 3200 Beechleaf Court, Raleigh, Wake County, North Carolina.

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, David Shane Simmons (“Respondent”) did not appear, did not request to remotely participate, and was not represented by counsel at the hearing.

Petitioner moved, pursuant to 11 NCAC 01 .0423(a)(1), for the imposition of sanctions due to Respondent’s failure to appear or participate in the hearing remotely. Petitioner’s motion for sanctions was DENIED. The undersigned Hearing Officer proceeded to accept and consider testimony and evidence offered by Petitioner in support of its Petition at the hearing.

Matthew Reck, Complaint Analyst with Agent Services, appeared and testified on behalf of the Petitioner.

Petitioner’s Exhibits 1 through 12, and all subparts, were admitted into evidence with redactions of personally identifiable information.

The Petition for Administrative Hearing alleged that Respondent violated various sections of Chapter 58 of the North Carolina General Statutes by failing to report a criminal prosecution, a felony conviction, and a Financial Industry Regulatory Authority (“FINRA”) administrative action to the Commissioner.

Additionally, the Petition cites Respondent's felony conviction for conspiracy to defraud the United States and his use of dishonest practices—including tax fraud, submission of false information to insurers, and sharing commissions with unlicensed parties—as grounds for the violations.

BASED UPON careful consideration of the documentary and testimonial evidence presented at the hearing, and upon the entire record in the proceeding, 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 for enforcement of the insurance laws of North Carolina and for regulating and licensing insurance producers, in accordance with Chapter 58 of the North Carolina General Statutes. Agent Services is the division of the NCDOI that handles the day-to-day regulation and licensing of insurance producers.

2. At the time of the January 22, 2026 hearing, Respondent held an expired North Carolina resident insurance producer license with lines of authority for Property, Casualty, Accident & Health or Sickness, Life, and Medicare Supplement/Long Term Care (“License”). *See* Pet'r's Ex. 4. Respondent's License also had a line of authority in Variable Life & Variable Annuities insurance products, but that line of authority was canceled by the NCDOI effective March 12, 2024. *See* Pet'r's Ex. 8F.

3. Respondent's License lapsed on September 30, 2025 due to Respondent's failure to complete all required continuing education. *See* Pet'r's Ex. 4. Pursuant to N.C. Gen. Stat. § 58-33-130 and 11 NCAC 6A .0811(a), Respondent's License was subject to reinstatement if Respondent completed the outstanding continuing education prior to January 31, 2026.

4. Respondent is a resident of North Carolina currently incarcerated at Federal Prison Camp (“FPC”) Morgantown in Morgantown, West Virginia. *See* Pet'r's Exs. 4 and 6.

5. Respondent was also the designated responsible licensed producer for Bohicket, LLC, a North Carolina limited liability company. *See* Pet'r's Ex. 5. Bohicket, LLC was issued a North Carolina business entity producer license by the NCDOI that expired March 31, 2025, after the entity failed to pay the required license fee. *Id.*

6. On November 25, 2025, copies of the Notice of Administrative Hearing and Petition for Administrative Hearing were deposited in the United States Postal Service, via both first-class mail and certified mail, return receipt requested. Service

was directed to Respondent's residential address of record and to Respondent's current location at FPC Morgantown, pursuant to N.C. Gen. Stat. §§ 58-2-69(b),(d) and (e), 150B-38(c), and Rule 4 of the North Carolina Rules of Civil Procedure. *See* Pet'r's Exs. 1-3, and 6. The certified mail to Respondent's residential address was delivered on December 4, 2025, and the first-class mail was not returned. *See* Pet'r's Exs. 2 and 3. The certified mail to Respondent at FPC Morgantown was delivered on December 3, 2025, and the first-class mail was not returned. *Id.*

7. On December 11, 2023, Agent Services received a referral from the Ohio Department of Insurance indicating that the Financial Industry Regulatory Authority ("FINRA"), a self-regulatory organization that oversees brokerage firms and their registered representatives, had taken administrative action against Respondent and that Respondent was also subject to federal criminal indictment. *See* Pet'r's Exs. 7 and 8A.

8. Matthew Reck ("Mr. Reck") is a Complaint Analyst with Agent Services, and his job responsibilities include investigating licensure matters concerning North Carolina licensees. On December 18, 2023, Agent Services' investigation of Respondent was assigned to Mr. Reck. Pet'r's Ex. 7.

9. During his investigation, Mr. Reck obtained a FINRA Letter of Acceptance, Waiver, and Consent ("AWC") dated March 15, 2023, which barred Respondent from associating with any FINRA member in any capacity ("FINRA administrative action"). *See* Pet'r's Exs. 7 and 12. In the AWC, Respondent accepted and consented to FINRA's finding that Lincoln Financial Securities Corporation ("Lincoln Financial") discharged Respondent in September 2021 after he refused to cooperate with an internal investigation. *See* Pet'r's Exs. 8C and 12. Furthermore, despite FINRA's request for certain information and documents on January 27, 2023, and appearance for on-the-record testimony on February 28, 2023, the AWC notes that Respondent refused to comply with either request, violating FINRA rules. *Id.*

10. A licensee is obligated to report any administrative action taken against the licensee to the NCDOI within 30 days of the action's final disposition. *See* N.C. Gen. Stat. § 58-33-32(k). This report must include a copy of the order or consent order and any other information or documents filed in the proceeding necessary to describe the action. *Id.* A licensee may report an administrative action by uploading a copy of the administrative action to the NIPR Attachment Warehouse or reporting it directly to the NCDOI via mail, e-mail, or fax.

11. On December 18, 2023, Mr. Reck sent Respondent correspondence via e-mail to Respondent's e-mail address of record advising that Agent Services was aware of the unreported FINRA administrative action and explained the statutory requirement to report within 30 days after the final disposition. *See* Pet'r's Exs. 8B. Respondent was instructed to provide a written response, along with any

documentation regarding these matters within 10 days. *Id.*

12. On December 20, 2023, Respondent's attorney, Amiel Rossabi, responded to Mr. Reck's e-mail, attaching a copy of the FINRA administrative action and apologizing for not providing a copy of it sooner. *See* Pet'r's Ex. 8C.

13. Respondent did not report the FINRA administrative action via the NIPR Attachment Warehouse within 30 days from its effective date of March 15, 2023, as required by N.C. Gen. Stat. § 58-33-32(k). *See* Pet'r's Ex. 7. Furthermore, while Respondent's attorney did report the FINRA administrative action directly to the NCDOJ on December 20, 2023, it was outside of the 30 day statutory timeframe required by N.C. Gen. Stat. § 58-33-32(k).

14. On January 10, 2024, Mr. Reck sent correspondence via first-class mail and e-mail to Respondent and Respondent's attorney, Amiel Rossabi requesting that Respondent attend an informal conference to discuss the FINRA administrative action. *See* Pet'r's Exs. 7 and 8D. The in-person informal conference for Respondent was scheduled on February 22, 2024, at 11:30 a.m. at 3200 Beechleaf Court, Raleigh, NC 27604. *See* Pet'r's Ex. 8D.

15. Per Amiel Rossabi's January 11, 2024 request, the February 22, 2024 informal conference was rescheduled to occur on March 11, 2024 (same time and location). *See* Pet'r's Ex. 7.

16. During Agent Services' investigation, Mr. Reck also learned that, on November 16, 2022, Respondent was indicted by the Grand Jury of the United States District Court for the Western District of North Carolina with one count of felony conspiracy to defraud the United States in violation of 18 U.S.C. § 371, eleven counts of aiding and assisting in the filing of false tax returns in violation of 26 U.S.C. § 7206(2), five counts of filing a false tax return in violation of 26 U.S.C. § 7206(1), and one count of wire fraud in violation of 18 U.S.C. § 1343 in *United States v. Simmons, et al.*, No. 5:22-CR-60 (W.D.N.C.) ("Bill of Indictment"). *See* Pet'r's Exs. 7 and 9.

17. The November 16, 2022 Bill of Indictment alleges that the felony charges against Respondent arose from his involvement with Missouri tax attorneys, Michael Elliot Kohn and Catherine Elizabeth Chollet. *See* Pet'r's Ex. 9. The trio was accused of promoting, marketing, and selling a fraudulent tax scheme known as the "Gain Elimination Plan" to clients across North Carolina, Missouri, California, Minnesota, Illinois, Texas, and Oklahoma. *Id.*

18. As part of the "Gain Elimination Plan" tax shelter, Respondent allegedly provided false information to Lincoln Financial, including false representations concerning clients' financials to facilitate the issuance of insurance policies, for which Respondent earned large commissions. The November 16, 2022 Bill of Indictment

alleges that Respondent split many of these commissions with Mr. Kohn, Ms. Chollet, and the Kohn Partnership, LLP law firm. *See* Pet'r's Ex. 9.

19. On December 21, 2022, Respondent was arraigned before Magistrate Judge David Cayer, entered a plea of not guilty, and was granted pretrial release due to the entry of a \$25,000 appearance bond. *See* Pet'r's Ex. 10. In addition to the initial appearance and arraignment on December 21, 2022, an Order Setting Conditions of Release and a Scheduling Order were entered on this date by Magistrate Judge David Cayer. *Id.*

20. Pursuant to N.C. Gen. Stat. § 58-33-32(l), a licensee is obligated to report to the NCDOT any criminal prosecution of the licensee within 30 days after the initial pretrial hearing date or similar proceeding. The report shall include a copy of the initial complaint filed, the order resulting from the hearing or similar proceeding, and any other information or documents filed in the proceeding necessary to describe the prosecution. *Id.*

21. The initial appearance and arraignment were an initial pretrial hearing or similar proceeding, and Respondent was required to report information or documents from that proceeding necessary to describe the prosecution. Respondent did not report the initial appearance and arraignment within 30 days after December 21, 2022.

22. On March 7, 2024, Mr. Reck sent correspondence via e-mail to Respondent and Respondent's attorney, Amiel Rossabi advising that Agent Services was aware of Respondent's ongoing criminal prosecution in *U.S. v. Simmons, et al.*, No. 5:22-CR-60 (W.D.N.C.) and Respondent's failure to timely report his criminal prosecution to the Commissioner within 30 days as required by statute. *See* Pet'r's Ex. 8E. This correspondence informed Respondent that Agent Services wanted to discuss the allegations that Respondent made false and fraudulent representations in applications for insurance, engaged in dishonest practices, and split commissions with unlicensed individuals and entities, in addition to the unreported FINRA administrative action at the March 11, 2024 informal conference. *Id.*

23. On March 11, 2024, Respondent and Respondent's attorney, Amiel Rossabi met with Mr. Reck, Agent Services' Compliance Section Supervisor Nadine Scott ("Ms. Scott") and Agent Services' counsel to discuss the March 15, 2023 FINRA administrative action and the federal criminal charges pending against Respondent in *U.S. v. Simmons, et al.*, No. 5:22-CR-60 (W.D.N.C.). *See* Pet'r's Ex. 7. Respondent and Mr. Rossabi advised that a trial in the criminal matter was scheduled to begin on April 15, 2024. *Id.* Mr. Reck advised Respondent that his Variable Life & Variable Annuities line of authority would be cancelled because Respondent was barred by the March 15, 2023 administrative action from associating with any FINRA member in any capacity. *Id.*

24. On March 12, 2024, Mr. Reck sent correspondence via e-mail to Respondent and Respondent's attorney, Amiel Rossabi providing written notice that, pursuant to N.C. Gen. Stat. § 58-33-26(e), Respondent's Variable Life & Variable Annuities line of authority was cancelled due to Respondent's FINRA bar. *See* Pet'r's Ex. 8F.

25. On April 25, 2024, the federal jury returned a verdict finding Respondent guilty of one count of conspiring to defraud the federal government, eleven counts of aiding in the filing of false tax returns, and five counts of filing false tax returns. *See* Pet'r's Ex. 7.

26. Following the jury's April 25, 2024 verdict, and after an unsuccessful attempt to resolve the matter at an informal conference on March 11, 2024, Agent Services again attempted an informal resolution with Respondent's attorney as required by N.C. Gen. Stat. § 150B-22. *See* Pet'r's Ex. 7.

27. On November 15, 2024, U.S. District Court Judge Kenneth D. Bell entered Judgment against Respondent in *U.S. v. Simmons, et al.*, No. 5:22-CR-60 (W.D.N.C.), adjudicating Respondent guilty of one count of conspiring to defraud the federal government, eleven counts of aiding in the filing of false tax returns, and five felony of filing false tax returns and sentencing Respondent to a total of sixty months incarceration. *See* Pet'r's Ex. 11.

28. Pursuant to N.C. Gen. Stat. § 58-2-69(c), a licensee is obligated to notify the NCDOI in writing of a conviction for any crime or offense other than a motor vehicle infraction within 10 days after the date of the conviction. A "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere. *Id.*

29. Pursuant to the Judgment entered by Judge Bell on November 15, 2024, Respondent was adjudicated guilty of seventeen counts, which constitutes a conviction under N.C. Gen. Stat. § 58-2-69(c). Respondent did not report the Judgment within 10 days after November 15, 2024 by uploading it to the NIPR Attachment Warehouse or reporting it directly to the NCDOI. *See* Pet'r's Ex. 7.

30. On November 27, 2024, Respondent appealed Judge Bell's Judgment to the United States Court of Appeals for the Fourth Circuit. As of the hearing date, no decision disturbing Judge Bell's final order has been entered in *United States v. Simmons*, No. 24-4636 (4th Cir.).

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Respondent was properly served with the Notice of Administrative Hearing (“Notice”) and Petition for Administrative Hearing (“Petition”) in this matter pursuant to N.C. Gen. Stat. § 58-2-69(d) and (e). Service of the Notice and Petition to Respondent at FPC Morgantown and to Respondent’s residential address of record were deemed complete on or about November 30, 2025. *See* Pet’s Exs. 2 and 3.

3. Alternatively, Respondent was properly served with the Notice and Petition in this matter pursuant to N.C. Gen. Stat. § 150B-38(c) and Rule 4 of the North Carolina Rules of Civil Procedure. Service of the Notice and Petition to Respondent at FPC Morgantown and to Respondent’s residential address of record were deemed complete on December 3, 2025 and December 4, 2025, respectively. *See* Pet’s Exs. 2 and 3.

4. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(6), one basis for the revocation of a license issued by the NCDOT is where the licensee has been “convicted of a felony or a misdemeanor involving dishonesty, a breach of trust, or moral turpitude.”

5. Respondent was convicted of conspiracy to defraud the United States, a felony in violation of 18 U.S.C. § 371, in *United States v. Simmons, et al.*, No. 5:22-CR-60, by the United States District Court for the Western District of North Carolina. To the extent necessary, felony conspiracy under 18 U.S.C. § 371 involves dishonesty because the crime requires an agreement to defraud the United States by obstructing the lawful functions of a government agency by deceitful or dishonest means. *See* Pet’s Ex. 11.

6. Respondent was convicted of eleven counts of aiding in the filing of false tax returns, felonies in violation of 26 U.S.C. § 7206(2), in *United States v. Simmons, et al.*, No. 5:22-CR-60, by the United States District Court for the Western District of North Carolina. To the extent necessary, the felony crime under 26 U.S.C. § 7206(2) explicitly involves dishonesty as it requires proof that the defendant willfully aided or assisted in the preparation or presentation of a false return or document under the Internal Revenue laws. *See* Pet’s Ex. 11.

7. Respondent was convicted of five counts of filing false tax returns, felonies in violation of 26 U.S.C. § 7206(1), in *United States v. Simmons, et al.*, No. 5:22-CR-60, by the United States District Court for the Western District of North Carolina. To the extent necessary, the felony crime under 26 U.S.C. § 7206(1) explicitly involves dishonesty as it requires proof that the defendant made false or fraudulent statements on tax returns under penalties of perjury. *See* Pet’s Ex. 11.

8. Due to Respondent’s felony convictions for conspiracy to defraud the United States, aiding in the filing of false tax returns, and filing false tax returns on November 15, 2024, his North Carolina resident insurance producer is subject to disciplinary action pursuant to N.C. Gen. Stat. § 58-33-46(a)(6).

9. N.C. Gen. Stat. § 58-33-32(l) requires that licensed insurance producers report to the Commissioner any criminal prosecution “[w]ithin 30 days after the initial pretrial hearing date or similar proceeding[.]”

10. Respondent was arraigned before Magistrate Judge Cayer on December 21, 2022 in *United States v. Simmons, et al.*, No. 5:22-CR-60 (W.D.N.C.) but did not report his criminal prosecution to the Commissioner within 30 days of December 21, 2022. See Pet’r’s Ex. 10. Respondent’s failure to report this arraignment within 30 days after December 21, 2022 is a violation of N.C. Gen. Stat. § 58-33-32(l).

11. N.C. Gen. Stat. § 58-2-69(c) requires that licensed insurance producers notify the Commissioner if a licensee is convicted in any court of competent jurisdiction for any crime or offense other than a motor vehicle infraction “within 10 days after the date of the conviction.”

12. Respondent was convicted of felony conspiracy to defraud the United States, felony aiding in the filing of false tax returns, and felony filing false tax returns in *United States v. Simmons, et al.*, No. 5:22-CR-60 (W.D.N.C.) on November 15, 2024. See Pet’r’s Ex. 11. Respondent’s failure to report his criminal convictions to the Commissioner within 10 days of November 15, 2024 is a violation of N.C. Gen. Stat. § 58-2-69(c).

13. N.C. Gen. Stat. § 58-33-32(k) requires that licensed insurance producers report to the Commissioner any administrative action taken against the producer “within 30 days after the final disposition of the matter.” “As used in this subsection, ‘administrative action’ includes enforcement action taken against the producer by the FINRA.”

14. Respondent was required to report the March 15, 2023 FINRA administrative action within 30 days of the action’s final disposition. Respondent’s failure to report and provide a copy of the FINRA administrative action within 30 days of March 15, 2023 is a violation of N.C. Gen. Stat. § 58-33-32(k). Respondent eventually reported the FINRA administrative action on December 20, 2023, but this was beyond the statutorily required 30 days.

15. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), another basis for the revocation of a license issued by the NCDOI is where the licensee has violated “any insurance law of this or any other state, violated any administrative rule, subpoena, or order of the Commissioner or of another state’s insurance regulator, or violated any rule of FINRA.”

16. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), Respondent’s North Carolina resident insurance producer license is subject to disciplinary action for failing to timely report his criminal prosecution within 30 days of December 21, 2022,

in violation N.C. Gen. Stat. § 58-33-32(l).

17. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), Respondent's North Carolina resident insurance producer license is subject to disciplinary action for failing to timely report the Judgment entered by Judge Bell within 10 days of November 15, 2024, in violation N.C. Gen. Stat. § 58-2-69(c).

18. Moreover, Respondent's failure to timely report the FINRA administrative action within 30 days of March 15, 2023, in violation of N.C. Gen. Stat. § 58-33-32(k) subjects his North Carolina resident insurance producer license to disciplinary action pursuant to N.C. Gen. Stat. § 58-33-46(a)(2).

19. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(8), another basis for the revocation of a license issued by the NCDOT is where the licensee has used "dishonest practices" or demonstrated incompetence, untrustworthiness, or financial irresponsibility "in the conduct of business in this State or elsewhere."

20. The November 16, 2022 Bill of Indictment shows that among other acts, Respondent sold life insurance as a part of a fraudulent tax scheme, submitted false information regarding consumers' need for life insurance to Lincoln Financial, and shared commissions with unlicensed individuals and business entities. See Pet'r's Exs. 9 and 11. The undersigned finds that these are dishonest practices demonstrating untrustworthiness and financial irresponsibility in the conduct of insurance business in this State, which subjects Respondent's North Carolina resident insurance producer to disciplinary action pursuant to N.C. Gen. Stat. § 58-33-46(a)(8).

21. Each violation of N.C. Gen. Stat. § 58-33-46(a)(2), by itself, is sufficient grounds to support probation, suspension, or revocation of Respondent's North Carolina resident insurance producer license.

22. Respondent's violation of N.C. Gen. Stat. § 58-33-46(a)(6), by itself, is also sufficient grounds to support probation, suspension, or revocation of Respondent's North Carolina resident insurance producer license.

23. Respondent's violation of N.C. Gen. Stat. § 58-33-46(a)(8), by itself, is also sufficient grounds to support probation, suspension, or revocation of Respondent's North Carolina resident insurance producer license.

24. Based on the evidence received and the applicable law, the undersigned Hearing Officer concludes that Respondent's License should be revoked pursuant to N.C. Gen. Stat. §§ 58-33-46(a)(2), (a)(6), and (a)(8).

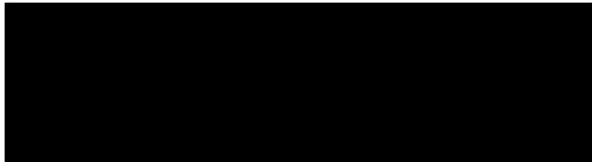
BASED UPON the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

ORDER

It is ORDERED that Respondent's resident insurance producer license issued by the North Carolina Department of Insurance is hereby **REVOKED**.

This Order is effective three (3) days from the date of mailing this Order. The "date of mailing" is the date indicated on the Certificate of Service attached to this Order.

This 23rd day of April 2026.



Shannon Wharry
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:

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This 23rd day of April 2026.



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