

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
JOSHUA SPIVAK
(NPN #2066749)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2079

This matter was heard on June 21, 2022, by the undersigned Hearing Officer, as designated by the North Carolina 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. North Carolina Assistant Attorney General Terence D. Friedman represented the Agent Services Division ("Petitioner" or "ASD") of the North Carolina Department of Insurance ("Department"). Respondent Joshua Spivak, proceeding *pro se*, did not appear.

Lisa Webb testified for the Petitioner. Petitioner introduced Exhibits 1-10 into evidence.

Due to the Respondent's failure to appear at the hearing, pursuant to 11 NCAC 01.0423(a)(1), the allegations of the Notice of Hearing and attached Petition for Administrative Hearing may be taken as true or deemed to be proved without further evidence.

After careful consideration, and 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. Respondent's North Carolina non-resident insurance producer license ("License") has been active since 2018.

2. Effective on or about March 11, 2021, the Louisiana Department of Insurance revoked Respondent's insurance producer's license in that state ("Louisiana Action"). Respondent did not report the Louisiana Action to the Commissioner within 30 days of the effective date of the Action.
3. On March 16 and 30 and April 13 and April 21, 2021, Petitioner informed or reiterated to Respondent in writing that he had failed to report the Louisiana Action to the Commissioner and was required to do so.
4. On October 13, 2021, Petitioner advised Respondent that his License was subject to revocation for failure to report the Louisiana Action and that Petitioner would conduct a conference with Respondent on November 9, 2021. Petitioner attempted to hold that meeting, but Respondent failed to attend.
5. On December 3, 2021, Petitioner reiterated to Respondent that his License was subject to revocation for failure to report the Louisiana Action and that Petitioner would engage in a second attempt to conduct a conference with Respondent on January 6, 2022. Petitioner attempted to hold that meeting, but Respondent failed to attend.
6. As of the day of the hearing in this matter, Respondent had never reported the Louisiana Action to the Commissioner.

BASED UPON the foregoing Findings of Fact, the undersigned Hearing Officer makes the following:

CONCLUSIONS OF LAW

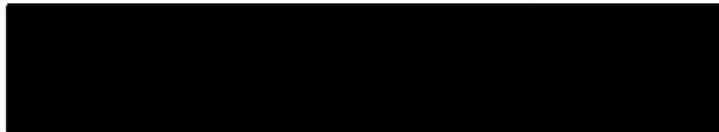
1. This matter is properly before the Commissioner, and he has jurisdiction over the parties and the subject matter.
2. Proper notice to Respondent has been given in this matter.
3. N. C. Gen. Stat. § 58-33-32(k) requires an insurance producer to report to the Commissioner "any administrative action" taken against the producer in another state "within 30 days after the final disposition of the matter," including by sending a "copy of the order or consent order and any other information filed in the proceeding necessary to describe the action."
4. The Louisiana Action is an administrative action taken against Respondent within the meaning of N.C. Gen. Stat. § 58-33-32(k).

5. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(2), one of the causes for which the Commissioner may revoke a license is for violating the insurance law of North Carolina.
6. Respondent violated the insurance law of North Carolina within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2) by failing to report the Louisiana Action within 30 days of the effective date of the Action, as required by N.C. Gen. Stat. § 58-33-32(k).

ORDER

It is ordered that Respondent'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 6th day of July, 2022.



Meghan Cook
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 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:

JOSHUA SPIVAK
710 S. 6th St.
Philadelphia, PA 19147
(Respondent)

Certified Mail Tracking Number: 70170530000073198432

Terence D. Friedman
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 6th day of July, 2022.



Mary Faulkner
Paralegal
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201