

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
SAMANTHA UWAGBOE
(NPN #19821426)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2117

THIS MATTER was heard on May 9, 2023, by the undersigned Hearing Officer, as designated by the Commissioner of Insurance pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, North Carolina.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance ("Petitioner" or "ASD"), was present and represented by Assistant Attorney General Gina M. Von Oehsen Cleary. Lindsay Maczka, a Complaint Analyst of ASD, appeared and testified on behalf of the Petitioner. Respondent, Samantha Uwagboe, ("Respondent") did not appear and was not represented by counsel at the hearing.

ASD moved for the imposition of sanctions pursuant to 11 N.C.A.C. 1.0423(a), for Respondent's failure to appear at the hearing. Petitioner's motion for sanctions was DENIED. The undersigned Hearing Officer did, however, proceed to accept and consider testimony and evidence offered by ASD in support of the Petition at the hearing. *See* Pet'r's Ex. 1.

Petitioner's Exhibits 1 through 8, 8a, 9a, 9b, 9c, and 9d, were admitted into evidence.

BASED UPON careful consideration of the evidence, arguments presented at the hearing by ASD, and upon the entire record in the proceeding, the 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, 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. Samantha Uwagboe ("Respondent") currently holds an active nonresident North Carolina Insurance Producer License with lines of authority for Life and Accident & Health or Sickness, and Medicare Supplement/Long Term Care ("License"). Respondent's North Carolina Nonresident Producer License was first active in North Carolina on July 6, 2022. *See* Pet'r's Ex. 3 and 4.

3. Service of the Notice of Administrative Hearing and Petition for Administrative Hearing, providing Respondent with due notice of the May 9, 2023, hearing, was perfected by United States Certified Mail on April 4, 2023, as evidenced by the Affidavit of Service and United States Postal Service domestic return receipt. *See* Pet'r's Ex. 1 and 2.

4. Ms. Lindsay Maczka is a Complaint Analyst with ASD and, among her job responsibilities, handles enforcement files for ASD. This includes responding to complaints and handling Personalized Information Capture System alerts ("PICS alerts") received through the National Association of Insurance Commissioners ("NAIC") system. PICS alerts notify NCDOI if another state has taken administrative actions against a North Carolina licensee.

5. Ms. Mackza was assigned the PICS alert relating to Petitioner, which the Kansas Insurance Department entered into NAIC on November 10, 2022. *See* Pet'r's Ex. 5. Ms. Mackza handled the investigation of Petitioner's enforcement file for ASD from November 22, 2022, up to the date of the hearing.

6. During her investigation, Ms. Mackza, reviewed the contents of Respondent's enforcement file, including Respondent's state-based system licensee summary, Pet'r's Ex. 3, Respondent's NAIC's state licensing report from Texas and North Carolina from the Producer Database, Pet'r's Ex. 4, Respondent's report on the Regulatory Information Retrieval System ("RIRS Report"), Pet'r's Ex. 5, and documents Respondent had uploaded to her profile in the National Insurance Producer Registry ("NIPR") attachment warehouse, Pet'r's Ex. 6.

7. On November 23, 2022, as part of her investigation, Ms. Mackza obtained a copy of Kansas Insurance Department's administrative action from Toni Garrard, a Senior Administrative Specialist from the Legal Division of the Kansas Insurance Department. *See* Pet'r's Ex. 7, 8. The Kansas administrative action was a denial of Respondent's application for licensure and was effective as of September 8, 2022. *See* Pet'r's Ex. 8a.

8. A licensee is obligated to report out-of-state administrative actions to NCDOI within thirty days. *See* N.C. Gen. Stat. § 58-33-32(k). This requirement can be achieved either by notifying ASD directly or by uploading a copy of the administrative action to the NIPR attachment warehouse.

9. Ms. Mackza testified that Respondent failed to report the September 8, 2022, Administrative Action, either by contacting ASD directly or by uploading the action to the NIPR attachment warehouse. *See* Pet'r's Exs 5, 6, and 8.

10. Accordingly, ASD sent correspondence to Respondent's email addresses of record on November 22, 2022, advising Respondent that the Kansas administrative action had not been reported to NCDOI or uploaded to the NIPR attachment warehouse. *See* Pet'r's Ex. 9a. Respondent was instructed to provide a written response along with documentation regarding the administrative action taken within ten days.

11. Ms. Mackza testified that Respondent did not respond to the November 22, 2022, correspondence.

12. ASD again sent correspondence to Respondent's email addresses of record on December 2, 2022, noting that Respondent failed to provide the documents and a written statement as requested in the November 22, 2022, correspondence. *See* Pet'r's Exs 9a and 9b. The December 2, 2022, correspondence gave Respondent notice that, unless Respondent sent a copy of the administrative action and a written statement to ASD within ten days, ASD would consider Respondent to be in violation of N.C. Gen. Stat. §§ 58-2-185 and 58-2-195. *Id.*

13. Ms. Mackza testified that Respondent failed to respond to ASD's correspondence and did not provide the requested documentation within ten days of the December 2, 2022, correspondence.

14. On December 12, 2022, ASD sent yet another email to Respondent's email addresses. That same day, a copy of the correspondence was physically mailed to Respondent's residential address of record, as required by N.C. Gen. Stat. § 58-2-69(b), via the U.S. Postal Service on December 12, 2022. *See* Pet'r's Ex. 9c. This correspondence alerted Respondent that she appeared to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k) and informed her that an informal telephonic conference had been scheduled for January 9, 2023, at 11:30 a.m. to discuss the allegations. *Id.*

15. Ms. Mackza testified that the Respondent failed to respond to ASD's letter, and Respondent failed to attend the informal telephonic conference scheduled for January 9, 2023.

16. Finally, ASD sent yet another correspondence to Respondent's email addresses and to her residential address of record on January 11, 2023. *See* Pet'r's Ex. 9d. This correspondence informed Respondent again that she appeared to be in violation of N.C. Gen. Stat. §§ 58-33-46(a)(2) and 58-33-32(k) and informed her that a second informal telephonic conference had been scheduled for January 24, 2023, at 11:30 a.m. to discuss the allegations. *Id.*

17. Respondent did not respond to ASD or attend the informal telephonic conference scheduled for January 24, 2023.

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 and Petition for Administrative Hearing in this matter. *See* Pet'r's Ex. 1, 2.

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

4. N.C. Gen. Stat. § 58-33-32(k) 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." Section 58-33-32(k) further specifies that this 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. Respondent failed to report Kansas' Administrative Action taken by the Kansas Insurance Department (effective as of September 8, 2022) to the Commissioner within thirty (30) days of the action's final disposition, as required by N.C. Gen. Stat. § 58-33-32(k).

6. By failing to report Kansas' Administrative Action within thirty (30) days of the final disposition, the Respondent violated a North Carolina insurance law within the meaning of N.C. Gen. Stat. § 58-33-46(a)(2).

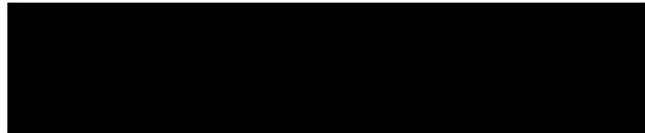
7. Based on the evidence received and the applicable law, the undersigned Hearing Officer concludes that Respondent's license should be revoked under N.C. Gen. Stat. § 58-33-46(a)(2) for violating N.C. Gen. Stat. § 58-33-32(k).

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 license is hereby REVOKED.

This 20th day of June, 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 1.0413 and N.C.G.S. § 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: 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; and 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:

Samantha Uwagboe
2124 Dove Cir.
Grand Prairie, TX 75052-8817
(Respondent)

Certified Mail Tracking Number: 7020 0640 0000 3185 5032

Gina M. Von Oehsen Cleary
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This the 20th day of June, 2023


Kimberly W. Pearce, NCCP
Paralegal III
N.C. Department of Insurance
General Counsel's Office
1201 Mail Service Center
Raleigh, NC 27699-1201