

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA	)	BEFORE THE
COUNTY OF WAKE	)	COMMISSIONER OF INSURANCE
	)	
IN THE MATTER OF:	)	ORDER AND FINAL
	)	AGENCY DECISION
THE LICENSURE OF	)	
TROY A. WEAVER	)	Docket Number: 1959
NPN #3148105	)	
	)	
Respondent.	)	
	)	

THIS MATTER was heard on January 8, 2020 by the undersigned Hearing Officer, designated by the North Carolina Commissioner of Insurance ("Commissioner") under N.C. Gen. Stat. § 58-2-55, pursuant to a Notice of Administrative Hearing ("NOAH") that was duly issued and served on Respondent Troy A. Weaver ("Respondent").

Respondent, proceeding *pro se*, failed to appear at the hearing.

Petitioner Agent Services Division ("ASD") of the North Carolina Department of Insurance ("NCDOI") was present at the hearing and was represented by Lisa M. Sheppard, Assistant Attorney General. NCDOI employee Thomas Walls testified at the hearing.

ASD offered into evidence Petitioner's Exhibits 1 through 9, which were admitted into evidence.

ASD requested leave to amend the NOAH to conform to the evidence presented at the hearing pursuant to N.C. Gen. Stat. §1A-1, Rule 15(b), to reflect that Respondent was convicted of misdemeanors rather than felonies, which motion was granted during the course of the hearing.

BASED UPON careful consideration of the evidence and arguments presented, and based 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 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 holds an active license issued by NCDOI as a resident North Carolina insurance producer with lines of authority in Accident & Health or Sickness ("NC License").
3. Pursuant to N.C. Gen. Stat. § 58-2-69, Respondent has listed his residential address with the NCDOI.
4. On or about June 8, 2017 ASD received a letter from American Family Life Assurance Company of Columbus ("AFLAC") notifying ASD that Respondents appointment to represent AFLAC was canceled for cause on May 25, 2017.
5. On October 30, 2017 Respondent was indicted in Pender County Superior Court, file number 17 CRS 051527, on three counts of Insurance Fraud in violation of N.C. Gen. Stat. § 58-1-161.
6. On October 30, 2017 Respondent was indicted in Pender County Superior Court, file number 17 CRS 051529, on one count of obtaining property by false pretense and one count of attempting to obtain property by false pretense in violation of N.C. Gen. Stat. § 14-100.
7. On May 28, 2019, Respondent pleaded guilty and was convicted of two (2) counts of misdemeanor solicitation of insurance fraud in violation of N.C. Gen. Stat. § 58-2-161 in *State v. Weaver*, 17 CRS 51527 (Pender Co.) (the "2019 Conviction").
8. On November 26, 2019, the NCDOI served a copy of the NOAH on Respondent at his residential address listed with the NCDOI via First Class U.S. Mail pursuant to N.C. Gen. Stat. § 58-2-69(d). The copy of the NOAH served via First Class U.S. Mail to Respondent's residential address listed with the NCDOI has never been returned.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner and he has jurisdiction over the parties and the subject matter.
2. Respondent was properly served with the NOAH in this matter.
3. N.C. Gen. Stat. § 58-33-46(a)(2) permits the Commissioner to revoke an insurance producer's license for "[v]iolating any insurance law of this or any other state."
4. Respondent was convicted of violating N.C. Gen. Stat. § 58-2-161 –an insurance law of this state—by the terms of the 2019 Conviction and his NC License should therefore be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(2).
5. N.C. Gen. Stat. § 58-33-46(a)(6) permits the Commissioner to revoke an insurance producer's license for "[h]aving been convicted of a felony or misdemeanor involving dishonesty."
6. Respondent was convicted of two (2) counts of misdemeanor solicitation of insurance fraud – misdemeanors involving dishonesty – by the terms of the 2019 Conviction and his NC License should therefore be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(6).
7. N.C. Gen. Stat. § 58-33-46(a)(7) permits the Commissioner to revoke an insurance producer's license for "[h]aving been found to have committed any insurance unfair trade practice or fraud."
8. Respondent's 2019 Conviction constitutes a finding that Respondent committed insurance fraud and his NC License should therefore be revoked pursuant to N.C. Gen. Stat. § 58-33-46(a)(7).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's North Carolina resident insurance producer's license be revoked.

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. 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 of a Petition on the Department of Insurance is: A. John Hoomani, General Counsel, North Carolina Department of Insurance, 1201 Mail Service Center, Raleigh, NC 27699-1201.

This 30th day of January 2020.



Meghan N. Cook
Hearing Officer
N.C. Department of Insurance
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 Respondent 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:

Troy A. Weaver
17 Jenn Road
Burgaw, NC 28425-8131
(Respondent)

Certified Mail Tracking Number: 70191120000089734336

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

This 30th day of January 2020.



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