

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE MATTER OF:

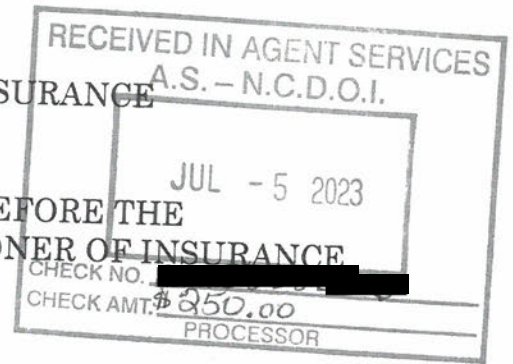
THE LICENSURE OF
CURTASCA WHITEN
NPN # 19210049

Respondent.

BEFORE THE
COMMISSIONER OF INSURANCE

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2116



THIS MATTER came on for hearing on Tuesday, April 4, 2023, before 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 the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina. Assistant Attorney General Rebecca E. Lem represented the North Carolina Department of Insurance, Agent Services Division ("Petitioner" or "Agent Services" or "ASD"). Respondent Curtasca Whiten ("Respondent") appeared *pro se* via Cisco Web Ex.

Jeff Miller, Complaint Analyst with ASD testified for the Petitioner. Petitioner introduced Petitioner's Exhibits 1 through 9 into evidence, including subparts to Exhibit 4, Exhibit 6, Exhibit 7, and Exhibit 9.

Respondent testified as an adverse witness for Petitioner and in her own defense.

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. 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 holds a Non-Resident Producer License with lines of authority in Accident and Health or Sickness, and Medicare Supplement Long Term

Care National Producer Number 19210049. Respondent's North Carolina licenses were first active on or about August 12, 2019. *See* Pet'r's Ex. 3.

3. The Notice of Administrative Hearing was properly served on Respondent, and the Notice of Administrative Hearing and Affidavit of Service were admitted into evidence as Petitioner's Exhibits 1 and 2.

4. On or around September 9, 2021, *see* Pet'r's Ex. 8, Jeff Miller, Complaint Analyst with ASD, was assigned to this matter after ASD received an alert from the Personally Identifiable Information Capture System ("PICS alert"), which is an automatic notification system through the National Association of Insurance Commissioners ("NAIC"). PICS alerts can be viewed through the Regulatory Information Retrieval System ("RIRS"), which is also accessed through the NAIC system. The PICS alert in this case related to administrative action in New York that went into effect on October 6, 2020. *See* Pet'r's Ex. 9(a).

5. On September 9, 2021, Mr. Miller attempted to contact Respondent via email, at her email address on record with ASD, which was phoenixlicensing@humana.com. *See* Pet'r's Exs. 3, 6(b). In that email, Mr. Miller requested a response within ten days. *See* Pet'r's Ex. 3.

6. After receiving no response, Mr. Miller again sent an email to that same email address on September 29, 2021. *See* Pet'r's Ex. 6c.

7. On October 12, 2021, Mr. Miller received a response to his September 9, 2021, email from Ms. Stephanie Combs, a Credentialing Assistant with Humana. Ms. Combs explained that Respondent had been out on leave and attached a letter from Respondent explaining the circumstances regarding the administrative action she received in New York. *See* Pet'r's Ex. 6(d)(i). The letter was also uploaded to the National Insurance Producer Registry ("NIPR") Attachment Warehouse that same day.

8. Respondent did not send a copy of the actual administrative action from New York to Mr. Miller, nor did she upload a copy to the NIPR Attachment Warehouse.

9. On January 5, 2022, Mr. Miller received a copy of the New York Administrative Action from the New York Department of Financial Services ("NYDFS"). *See* Pet'r's Ex. 9(a)–(b). The New York Administrative Action was dated October 6, 2020. *See* Pet'r's Ex. 9(a).

10. Mr. Miller had also scheduled an informal conference for January 6, 2022, with his supervisor and Respondent, to discuss the New York administrative action. *See* Pet'r's Ex. 6(e). The first attempt did not take place. *See* Pet'r's Ex. 8. A

second informal conference was scheduled February 24, 2022, *see* Pet'r's Ex. and occurred as scheduled. However, the parties were unable to reach a resolution. *See* Pet'r's Exs. 6(f)–(h).

11. At the hearing in this matter, Respondent testified that she had not worked at Humana since December 2022 and was not currently utilizing her licenses as an insurance agent as she had just completed a master's degree in information insurance and cybersecurity.

12. Respondent testified that, prior to December 2022, she had taken leaves of absence from her job at Humana, which caused her to miss correspondence, including the email scheduling the first informal conference.

13. Respondent explained that the email address on file with ASD was her Humana work email address, to which she did not have access during her leaves of absence.

14. Respondent also explained that she was unaware of the New York administrative action, which she believes may be the result of a breakdown in communication with Humana's licensing staff during the COVID-19 pandemic. It further appears that she never received any notification of the NY license denial other than that served via email.

15. Respondent stated that she was unaware of the requirement pursuant to N.C. Gen. Stat. § 58-33-32(k) requiring licensees to report administrative actions from other states to ASD within thirty days of the effective date of the action. Respondent verified her current residential address, which was not the residential address on record with ASD as of the date of the hearing.

16. Respondent expressed a desire to retain her North Carolina insurance license, and an understanding that she is responsible for keeping her contact information up to date and reporting all administrative actions to ASD.

CONCLUSIONS OF LAW

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

2. The Notice of Administrative Hearing was properly served on Petitioner pursuant to Rule 4 of the North Carolina Rules of Civil Procedure.

3. The evidence presented at the hearing supports the allegations of the Notice of Hearing and Petition.

4. Pursuant to N.C. Gen. Stat. § 58-33-32(k), Respondent was required to report the New York administrative action to ASD within thirty days of the effective date of that action. Respondent failed to timely report this administrative action.

5. Respondent's failure to report the New York administrative action to the Department within thirty days of the effective dates of those actions is a violation of N.C. Gen. Stat. § 58-33-32(k).

6. N.C. Gen. Stat. § 58-2-69(b) requires licensees to keep their contact information up to date with ASD.


7. Respondent's failure to keep her contact information up to date as required by N.C. Gen. Stat. § 58-2-69(b) constitutes a statutory violation, which resulted in additional administrative burden on the Department.

8. N.C. Gen. Stat. § 58-33-46(a)(2) empowers the Commissioner to suspend, revoke, or refuse to renew any license issued under this Article for violating any insurance law of this or any other state. Additionally, N.C. Gen. Stat. § 58-2-70 allows the Commissioner to order a payment of a monetary penalty for a violation of Chapter 58 of the North Carolina General Statutes.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED** that Respondent Curtasca Whiten pay a civil penalty in the amount of \$250.00 for violations of N.C. Gen. Stat. §§ 58-33-32(k) and 58-2-69(b). Payment of this civil penalty shall be by certified funds, to include certified bank check, cashier's check, or money order, and shall be made payable to the "North Carolina Department of Insurance" and submitted to the Agent Services Division of the North Carolina Department of Insurance within thirty (30) days of receipt of this Order and Final Agency Decision. This civil penalty shall be subject to disbursement in accordance with the provisions of Article IX, Section 7 of the North Carolina Constitution for the benefit of the public schools. Failure to comply with the terms of this Order may provide grounds for administrative action, to include, but not limited to, revocation, non-renewal, or suspension.

This the 23rd day of May, 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 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 addresses provided to the Commissioner pursuant to N.C. Gen. Stat. § 58-2-69b; and via State Courier to Attorney for Petitioner, addressed as follows:

Curtasca Whiten
4327 W. Ocotillo Rd.
Glendale, AZ. 58301-3608
Respondent


Certified Mail Tracking Number: 7022-2410-0000-9662-5178

Curtasca Whiten
PO BOX 8361
Phoenix, AZ 85066-8361
Respondent

Certified Mail Tracking Number: 7022-2410-000-9662-5185

Rebecca E. Lem
Assistant Attorney General
N.C. Department of Justice
Insurance Section
9001 Mail Service Center
Raleigh, NC 27699-9001
Attorney for Petitioner

This the 24th day of May, 2023.


Mary Faulkner
Paralegal III
N.C. Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201