

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA)	BEFORE THE
COUNTY OF WAKE)	COMMISSIONER OF INSURANCE
)	
)	
IN THE MATTER OF:)	
)	
THE LICENSURE OF)	ORDER AND
DANNY H. WYATT)	<u>FINAL AGENCY DECISION</u>
(NPN #10006764))	
)	Docket Number: 2141
)	
Respondent.)	
)	

THIS MATTER came on for hearing on November 15, 2023, in Hearing Room #131 of the Albemarle Building, 325 North Salisbury Street, Raleigh, North Carolina, before the undersigned Hearing Officer, as designated by the North Carolina Commissioner of Insurance ("Commissioner") under N.C. Gen. Stat. § 58-2-55.

Petitioner, the Agent Services Division of the North Carolina Department of Insurance ("Agent Services"), was represented by Special Deputy Attorney General M. Denise Stanford. Respondent Danny H. Wyatt ("Respondent") appeared and represented himself at the hearing.

Agent Services' Exhibits 1 through 23 were admitted into evidence. Joe Wall, Deputy Commissioner with Agent Services, appeared and testified on behalf of Petitioner.

Respondent's Exhibits 1 through 16 were admitted into evidence. Respondent testified on his behalf at the hearing. Eric Marsh, a North Carolina licensed motor vehicle damage appraiser, also testified on behalf of Respondent.

The undersigned took official notice of the following statutes: N.C. Gen. Stat. §§ 20-279.2, 58-33-26, 58-33-30, 58-33-31, and 58-33-32.

BASED UPON careful consideration of the evidence and arguments presented at the hearing by Agent Services and Respondent, and based upon the entire record in this proceeding, the Hearing Officer 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 the enforcement of insurance laws and regulating and licensing motor vehicle damage appraisers (“MVDA”).

2. Respondent currently holds a North Carolina motor vehicle damage appraiser license which has been effective since October 2017. *See* Pet’s Ex. 2.

3. On April 6, 2021, Respondent sent an email to Richard Taylor, a North Carolina licensed nonresident MVDA, accusing Mr. Taylor of being biased and financially interested in evaluating a motor vehicle insurance claim. On that email, Respondent copied a representative of Progressive Insurance and two North Carolina state legislators, among others. *See* Pet’s Ex. 3

4. As a result, on July 29, 2021, Respondent entered into a voluntary settlement agreement (“2021 VSA”) with the Commissioner. The 2021 VSA specifically stated that “Mr. Wyatt’s April 6, 2021 email violated 11 NCAC 06A .1002(b)(1) and (11)”, which prohibits disparaging the professional reputation of a motor vehicle damage appraiser” and “act[ing] in any manner outside the scope of a motor vehicle damage appraiser” respectively, and included a \$500 penalty. Pet’s Ex. 5. 11 NCAC 6A .1002(b)(1)

5. As a condition of the 2021 VSA, Respondent agreed to obey all North Carolina laws and regulations governing MVDAs and that the 2021 VSA was an order of the Commissioner which, if violated, could lead to revocation of Respondent’s MVDA license. *See id.*

6. Monica Fisher is a North Carolina licensed nonresident MVDA and has been so since April 2008. *See* Pet’s Ex. 6.

7. Notwithstanding Ms. Fisher’s active license, Respondent wrote to Ms. Fisher in August of 2021 stating that she was not a lawfully licensed nonresident MVDA. *See* Pet’s Ex. 7.

8. Patrick Dittrich is a North Carolina licensed nonresident MVDA and has been so since June 2017. *See* Pet’s Ex. 8.

9. Notwithstanding Mr. Dittrich’s active license, Respondent wrote to Mr. Dittrich on September 25, 2021, that he might “need to consider voluntary turn in your NC MVDA license in as soon as you can” and that, when Agent Services began enforcing *Respondent’s interpretation* of the legal requirements for nonresident MVDAs, “it will not be good for those holding such license.” *See* Pet’s Ex. 9.

10. Charles ("Chuck") Stewart is a North Carolina licensed nonresident MVDA and has been so since July 2018. *See* Pet'r's Ex. 10.

11. Notwithstanding Mr. Stewart's active license, Respondent wrote to Mr. Stewart on October 20, 2021, that he was not a lawfully licensed nonresident MVDA. Respondent refused to work with Mr. Stewart on an insurance claim that Respondent and Mr. Stewart had been assigned. *See* Pet'r's Ex. 11.

12. Respondent later asserted to Agent Services that the reason he had written to Mr. Stewart was because Mr. Stewart "falsified his North Carolina NIRP [sic] application for nonresident NC-MVDA license." *See* Pet'r's Ex. 11.

13. Gary Smith is a North Carolina licensed nonresident MVDA and has been so since December 2021. *See* Pet'r's Ex. 13.

14. Notwithstanding Mr. Smith's active license, Respondent wrote to Mr. Smith on December 22, 2021, stating that he was not a lawfully licensed nonresident MVDA. Respondent refused to work with Mr. Smith on an insurance claim that Respondent and Mr. Smith had been assigned. *See* Pet'r's Ex. 14.

15. Anthony DiMaria is a North Carolina licensed nonresident MVDA and has been so since March 2019. *See* Pet'r's Ex. 18.

16. Notwithstanding Mr. DiMaria's active license, Respondent wrote to Mr. DiMaria on January 19, 2023, that he was not a lawfully licensed nonresident MVDA. Respondent refused to work with Mr. DiMaria on an insurance claim that Respondent and Mr. DiMaria had been assigned. *See* Pet'r's Ex. 19.

17. Agent Services obtained an Advisory Letter from the North Carolina Department of Justice dated December 15, 2021, which clarified the legal requirements for non-resident MVDAs. The Advisory Letter concluded that, pursuant to N.C. Gen. Stat. § 58-33-30(h)(2), a nonresident who resides in a state that does not license MVDAs may qualify for a nonresident MVDA license if the applicant meets all other applicable requirements for licensure of residents. *See* Pet'r's Ex. 12.

18. Respondent was provided with a copy of the said Advisory Letter, but has continued to insist upon his own, conflicting interpretation of N.C. Gen. Stat. § 58-33-30(h).

19. Respondent is not a licensed North Carolina attorney.

20. Respondent also testified that nonresident MVDAs compete with his business.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, and the Commissioner has jurisdiction over the parties and subject matter.
2. Respondent was properly served with the Notice of Administrative Hearing in this matter.
3. N.C. Gen. Stat. § 58-33-46(a) specifies seventeen grounds on which the Commissioner may “place on probation, suspend, revoke, or refuse to renew” a motor vehicle damage appraiser license.
4. 11 NCAC 06A .1002(b)(1) states that “every licensed motor vehicle damage appraiser shall refrain from disparaging the professional reputation of a motor vehicle damage appraiser or other persons associated with the claim.”
5. Respondent’s statements to Monica Fisher, Patrick Dittrich, Chuck Stewart, Gary Smith, and Anthony DiMaria are disparaging to their professional reputations and therefore violated 11 NCAC 06A .1002(b)(1).
6. 11 NCAC 06A .1002(b)(4) states that “every licensed motor vehicle damage appraiser shall refrain from impeding the appraisal process or the settlement of a damage property claim.”
7. Respondent’s statements to or about Chuck Stewart, Gary Smith, and Anthony DiMaria impeded the appraisal process or settlement of property damage claims and therefore violated 11 NCAC 06A .1002(b)(4).
8. 11 NCAC 06A .1002(b)(7) states that “every licensed motor vehicle damage appraiser shall refrain from giving legal advice on property damage claims in violation of G.S. 84-4.” In relevant part, N.C. Gen. Stat. 84-4 prohibits a person who is not a licensed North Carolina attorney from “hold[ing] out himself, or themselves, as competent or qualified to give legal advice or counsel ... [or] to give legal advice or counsel”
9. Respondent’s statements to Chuck Stewart, Gary Smith, and Anthony DiMaria constitute legal advice about property claims and therefore violate 11 NCAC 06A .1002(b)(7).
10. 11 NCAC 06A .1002(a)(4) states that “every licensed motor vehicle damage appraiser, when conducting business, shall comply with all local, State, and federal laws, in the motor vehicle damage appraiser’s business affairs.”

11. Respondent's violations of administrative rules 11 NCAC 06A .1002(b)(1), 11 NCAC 06A .1002(b)(4) and 11 NCAC 06A .1002(b)(7) violate 11 NCAC 06A .1002(a)(4).

12. N.C. Gen. Stat. § 58-33-46(a)(2), in relevant part, authorizes disciplinary action if a licensee has violated any North Carolina insurance law, administrative rule, or order of the Commissioner.

13. Respondent's violations of administrative rules 11 NCAC 06A .1002(b)(1), 11 NCAC 06A .1002(b)(4), 11 NCAC 06A .1002(b)(7), and 11 NCAC 06A .1002(a)(4) provide grounds for the Commissioner to sanction Respondent's MVDA license under N.C. Gen. Stat. § 58-33-46(a)(2).

14. Respondent's violations of administrative rules 11 NCAC 06A .1002(b)(1), 11 NCAC 06A .1002(b)(4), 11 NCAC 06A .1002(b)(7), and 11 NCAC 06A .1002(a)(4) are also violations of Respondent's 2021 VSA, which is an Order of the Commissioner, and therefore provide grounds for the Commissioner to sanction Respondent's MVDA license under N.C. Gen. Stat. § 58-33-46(a)(2).

15. N.C. Gen. Stat. § 58-33-46(a)(8) authorizes disciplinary action if a licensee has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.

16. Respondent's violations of 11 NCAC 06A .1002(b)(1), 11 NCAC 06A .1002(b)(4) and 11 NCAC 06A .1002(b)(7) constitute coercive practices and demonstrate incompetence or untrustworthiness in the conduct of business in this State and therefore provide grounds for the Commissioner to sanction Respondent's MVDA license under N.C. Gen. Stat. § 58-33-46(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 North Carolina motor vehicle damage appraiser license is hereby REVOKED.

This 15th day of January, 202

Erin 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. § 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 copies of the same via certified U.S. Mail, return receipt requested and via first class U.S. Mail to the 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:

DANNY H. WYATT
190 ARCHER RD.
SALISBURY, NC 28147
(Respondent)

Certified Mail Tracking Number: 70222410000096625604

M. Denise Stanford
Special Deputy Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
(Attorney for Petitioner)

This 10th day of January, 2024.



Mary Faulkner
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