

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
MARTIN SAMIR YOUSIF
(NPN # 20596643)

Respondent.

ORDER AND
FINAL AGENCY DECISION

Docket Number: 2174

THIS MATTER came on for hearing on May 8, 2024, before the undersigned Hearing Officer, as designated by the Commissioner of Insurance (hereinafter “Commissioner”) pursuant to N.C. Gen. Stat. § 58-2-55. The administrative hearing was held in the North Carolina Department of Insurance’s Hearing Room #131 of the Albemarle Building, located at 325 North Salisbury Street, Raleigh, Wake County, North Carolina

Assistant Attorney General Rebecca E. Lem represented the Agent Services Division (hereinafter “Petitioner” or “ASD”) of the North Carolina Department of Insurance. Respondent Martin Samir Yousif (hereinafter, “Respondent”) did not appear and was not represented by counsel at the hearing.

Petitioner’s motion for the imposition of sanctions pursuant to 11 NCAC 01.0423(a) due to Respondent’s failure to respond at the hearing was DENIED. The undersigned Hearing Officer proceeded to accept and consider testimony and evidence offered by Petitioner in support of its Petition at the hearing.

Elizabeth Parsons, Assistant Deputy Commissioner for ASD, and Tommy Walls, Complaint Analyst with ASD, testified for the Petitioner. Petitioner introduced Exhibits 1-11, which were admitted into evidence without limitations.

BASED UPON the careful consideration of the allegations set forth in the Notice of Administrative Hearing, Petition in this matter, as well as the documentary and testimonial evidence presented at the hearing, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on Respondent via first class mail, at the address Respondent provided to the Commissioner pursuant to N.C. Gen. Stat. §§ 58-2-69(b), (d) and (e). *See* Pet'r Exs. 1 and 2.

2. The North Carolina Department of Insurance (hereinafter "Department") is a state agency that has the authority and responsibility for the enforcement of insurance laws of this State and for regulating and licensing insurance agents in accordance with Chapter 58 or the North Carolina General Statutes.

3. Respondent is a resident of Missouri. *See* Pet'r Exs. 3 and 4.

4. Respondent holds a non-resident producer license which was first active on May 9, 2023 with a line of authority in Life. Respondent's National Producer Number (NPN) is 20596643. *See* Pet'r Exs. 3 & 4.

5. On May 9, 2023, Respondent electronically submitted an application for a non-resident producer license through the National Insurance Producers Registry ("NIPR"). Respondent's producer license application required total payment of \$99.60, which included a \$94.00 licensing fee ("State fees") for the State of North Carolina and a \$5.60 application fee (also called "transaction fee"). These fees shall be referred to collectively as the "License Application Fees". Respondent's license application fees were paid through OCheque, an electronic check, where an individual's bank account is later debited. *See* Pet'r Ex. 5.

6. On June 12, 2023, ASD received an e-mail notification from the NIPR, that Respondent's payment of \$99.60 for the license application fee was rejected by his financial institution for insufficient funds. *See* Pet'r Ex. 6a.

7. The Department's online application process involves NIPR collecting applicant's License Application Fees. The Department has assigned the National Association of Insurance Commissioners (NAIC) as its designee for the purpose of receiving electronic documents, including applications, and associated electronic payments. The NIPR is the affiliate of the NAIC which receives these applications and electronic payments. During electronic processing of the applications and payments, NIPR advances fees daily to the Department before confirming that payments have cleared. *See* Pet'r Ex. 6a.

8. During the application process, the Department processes the \$99.60 license application fees as follows: \$5.60 transaction fee is collected and retained by NIPR. The remaining \$94.00 State fees collected by NIPR are received by the Department. Of the State fees, the Department then pays \$44.00 to its application

processing vendor, Pearson Vue, and the Department retains the remaining \$50.00 of the license application fee.

9. Prior to notifying the Department of the problem with Respondent's payment for application fees, the NIPR sent invoices and notifications to Respondent attempting to collect payment for the \$99.60 license application fee on May 16, 2023 and May 30, 2023. *See* Pet'r Ex. 6b. Respondent failed to pay the fees to NIPR as instructed.

10. On June 15, 2023, ASD sent a letter to Respondent's email address of record, notifying Respondent that his payment had been declined by his financial institution and instructed Respondent to pay the application fee to the NIPR within ten (10) business days. *See* Pet'r Ex. 6c. Respondent did not pay the application fees at any time after being notified by ASD.

11. Between July 13, 2023, to November 17, 2023, ASD sent correspondence to Respondent's email address of record, providing written notice of the insufficient payment status and attempting to collect the unpaid license application fees. All communication instructed Respondent to pay the license application fees to NIPR within set deadlines. *See* Pet'r Exs 7a-7g.

12. Respondent did not respond to ASD at any time, did not make necessary application payment to NIPR and failed to participate in a telephonic informal conference on September 14, 2023, to address the payment issue with ASD. *See* Pet'r Ex. 11.

13. The Department acquired a monetary loss of \$94.00 as a result of Respondent's failure to pay the required license application fee. Additionally, NIPR acquired a loss of \$5.60 transaction fee when Respondent's financial institution rejected the application fee payment due to insufficient funds.

14. Respondent received an adverse administrative action in Virginia resulting in the revocation of his Virginia license, effective November 21, 2023. *See* Pet'r Ex. 8. The basis of Respondent's license revocation was for obtaining an insurance license through misrepresentation when Respondent failed to make payment to the vendor selected by the Commonwealth of Virginia State Corporation Commission to collect an insurance license processing fee. *See* Pet'r Ex. 10.

15. On November 22, 2023, ASD notified Respondent by email of the Virginia administrative action and advised Respondent that he was required to report within 30 days of the effective date of the action and to provide a written response concerning the administrative action by December 21, 2022, pursuant to N.C. Gen. Stat. § 58-33-32(k). *See* Pet'r Ex. 7h.

16. Respondent failed to respond to ASD regarding the Virginia administrative action and Respondent did not report the Virginia administrative action to the Department by reporting directly to ASD or by uploading the Virginia action to the NIPR Attachment Warehouse. *See* Pet'r Ex. 9.

17. On December 29, 2023, ASD sent correspondence by first class U.S. mail and e-mail to Respondent's addresses of record, notifying him that a hearing would be scheduled due to his failure to pay his application fees and his failure to timely report the Virginia administrative action. *See* Pet'r Ex. 7i. Respondent did not respond to either correspondence and, as of the date of the administrative hearing, had not communicated with ASD after several attempts were made.

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner, 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 N.C. Gen. Stat. §§ 58-2-69(d) and 58-2-69(e) and Rule 4 of the North Carolina Rules of Civil Procedure. *See* Pet'r Ex. 1 and 2.

3. Pursuant to N.C. Gen. Stat. § 58-33-32(c)(2), a condition for a nonresident producer license includes submitting a request for licensure in the form prescribed by the Commissioner, and payment of the applicable fees required N.C. Gen. Stat. § 58-33-125. Respondent has not met this condition for licensure because he has not paid the applicable license fees due pursuant to N.C. Gen. Stat. § 58-33-125.

4. Respondent was required to pay a license application fee totaling \$99.60, payable electronically through the NIPR upon Respondent's application for a Non-Resident Producer license, that included the following:

- a. A \$50.00 registration fee as set forth in N.C. Gen. Stat. § 58-33-125(c).
- b. A \$44.00 initial application processing fee for an out-of-state producer, as authorized by N.C. Gen. Stat. § 58-2-69(g), N.C. Gen. Stat. § 58-2-250 and 11 NCAC 06A .0201. This fee was paid to Pearson Vue, the contracted application processing vendor for the Department.
- c. A \$5.60 transaction fee to the NIPR, which is the third-party vendor as authorized by N.C. Gen. Stat. § 58-2-69(g), N.C. Gen. Stat. § 58-2-250, and 11 NCAC 06A .0201.

5. Because Respondent's payment for the license application fee, made by "O'Cheque" during the electronic license application process, was rejected by his

financial institution for insufficient funds, Respondent never provided valid payment for his license application fees as required by N.C. Gen. Stat. § 58-33-125.

6. Pursuant to N.C. Gen. Stat. § 58-33-125, an applicant for a producer's license must pay a fee of \$50.00 to the Commissioner upon application for licensing and for each additional line of insurance. Respondent was required to pay \$50.00 pursuant to N.C. Gen. Stat. § 58-33-125, which has not been paid.

7. Pursuant to and as authorized by N.C. Gen. Stat. § 58-2-69(g), and 11 NCAC 06A.0201(a), Respondent was required to pay an \$44.00 application processing fee, and a \$5.60 fee for the third-party vendor, Pearson Vue, which has not been paid.

8. Pursuant to N.C. Gen. Stat. § 58-2-250(a), the NIPR is a designee of the Commissioner with the authority to oversee the electronic filing of insurance producer license applications.

9. Pursuant to N.C. Gen. Stat. § 58-2-250(c), as Commissioner's designee, NIPR is authorized to charge administrative fees for electronic filing. These administrative fees may include a transaction fee, credit card processing fee, or other bank processing fee pursuant to 11 NCAC 06A.0201(a), and such fees are to be paid at the time of the electronic filing transaction by electronic payment options including electronic check, credit card, automated clearing house (ACH), or electronic funds transfer (EFT). O'Cheque is a form of electronic check. The administrative fee charged by the NIPR in this matter was \$5.60, which has not been paid by the Respondent.

10. Respondent failed to pay any of the required fees for licensure pursuant to N.C. Gen. Stat. §§ 58-2-69(g), 58-33-32(c)(2), 58-33-125, 58-2-250(a), and 11 NCAC 06A.0201(a), despite numerous requests and opportunities to do so by both the NIPR and ASD.

11. The Department acquired a monetary loss of \$94.00 due to Respondent's failure to pay the required licensure fees pursuant to N.C. Gen. Stat. §§ 58-2-69(g), 58-33-32(c)(2), 58-33-125, 58-2-250(a), and 11 NCAC 06A.0201(a). Additionally, the NIPR acquired a monetary loss of \$5.60 due to the unpaid transaction fee.

12. Because Respondent failed to pay any of the statutory required fees for licensure, Respondent's license should have been deemed void ab initio. However, ASD failed to immediately act upon discovery of Respondent's nonpayment and as a result, Respondent has had the benefit of conducting business with an active insurance producer license issued by this Department without having satisfied the statutorily required license application fees.

13. N.C. Gen. Stat. § 58-33-46(a)(2) states that the Commissioner may place

on probation, suspend, or revoke the license of a licensee that has violated any insurance law of this or any other state, violated any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violated any rule of FINRA. Respondent's failure to pay the \$99.60 statutory license fees required pursuant to N.C. Gen. Stat. §§ 58-33-125(c), 58-2-69(g), 58-2-250 and 11 NCAC 06A .0201, provide sufficient grounds for revocation of Respondent's license.

14. Pursuant to N.C. Gen. Stat. § 58-33-46(a)(3), a licensee's license may be subject to disciplinary action for obtaining or attempting to obtain a license through misrepresentation or fraud. When Respondent entered payment information into the online application form, he made a representation that he had funds available to pay the application fee. This representation was false, as evidenced by the payment being rejected for insufficient funds, and by Respondent's continued failure to honor his obligation to pay the application fees despite numerous notices that these remained due. This violation, provides sufficient grounds for revocation of Respondent's license.

15. Pursuant to N.C. Gen. Stat. § 58-33-32(k), a producer is required to report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within thirty (30) days after the final disposition of the matter and to provide information and documents necessary to describe the action. Respondent failed to notify the Commissioner of the November 21, 2023, Virginia administrative action within thirty (30) days, despite two (2) email notifications from ASD prior to the expiration of the thirty (30) day period, in violation of N.C. Gen. Stat. § 58-33-32(k). This violation provides sufficient ground for disciplinary action against Respondent's license.

16. N.C. Gen. Stat. § 58-2-70 authorizes the Commissioner to order the payment of a monetary penalty upon finding a violation of Chapter 58 of the North Carolina General Statutes. The Department has suffered a financial loss due to Respondent's violations of 58-33-125(c), 58-2-69(g), 58-33-46(a)(2), (3), (8), (9) & (17) and 11 NCAC 06A.0201(a) when he failed to pay his license fees. A financial penalty is therefore appropriate in this matter.

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer enters the following:

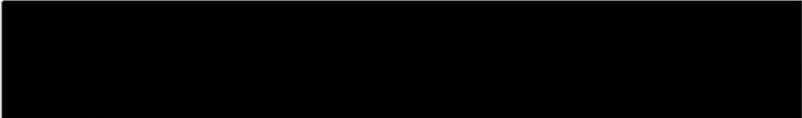
ORDER

It is ordered that Respondent's licenses issued by the North Carolina Department of Insurance are hereby REVOKED effective as of the date of the signing of this order.

It is further ordered that pursuant to N.C. Gen. Stat. § 58-2-70(c), Respondent shall make payment of a monetary penalty of one hundred dollars (\$100.00), by

certified check made payable to the "North Carolina Department of Insurance". The certified check shall be received by the North Carolina Department of Insurance, Agent Services Division (Attention: Nadine Scott, ASD), 1204 Mail Service Center, Raleigh, N.C. 27699-1204 and is due within 30 days upon the date of the signing of this order. Failure to timely pay this monetary penalty is a violation of an Order of the Commissioner and may be considered cause for future license denial by the Department and may be cause for other legal recourse required to collect this monetary penalty.

This the 1 day of May, 2025.



Alisha Benjamin
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: Amy Funderburk, 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:

Martin Samir Yousif
4343 Rhineland Dr.
Sterling Heights, MI 48314

Certified Mail Tracking Number: 9589 0710 5270 1723 5214 28

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(Attorney for Petitioner)

This the 7th day of May, 2025.



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