

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 10639-AG12-0426-031

IN THE MATTER OF:)

Michael Ippolito)
9 Misty Ct.)
South Hadley, MA 01075)

Respondent,)

Type of Agency Action: Enforcement)

License Number: 747208)

FILED

OCT 04 2012

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 21, 2012, the Administrative Law Judge, filed her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended order and Notice of Filing Recommended Order on Respondent by mailing the same to his home address.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

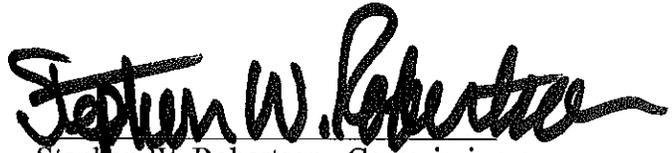
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, and Conclusions of Law. However, the Administrative Law Judge's Recommended Order is inconsistent, in that a producer whose

license is permanently revoked may not thereafter apply for a producer license. Therefore, the Commissioner issues the following Final Order:

IT IS THEREFORE ORDERED that Respondent's insurance producer license is permanently revoked.

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 4th day of October 2012.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Michael Ippolito
9 Misty Ct.
South Hadley, MA 01075

Adam H. Berry
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER**

Administrative Law Judge, Debra M. Webb, had to disqualify herself from rendering an opinion on this matter. Holly Williams was appointed to serve as the Administrative Law Judge in this matter pursuant to IC § 4-21.5-3-9. Administrative Law Judge, Holly Williams, having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Michael Ippolito ("Respondent"), which came to be heard on May 23, 2012, at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana 46204.

The Indiana Department of Insurance (the "Department") was represented by counsel, Adam H. Berry. Respondent failed to appear in person or by counsel. A witness for the Department testified under oath, evidence was heard, and exhibits were received into evidence. Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact, Conclusions of Law, and issues a Recommended Order.

FINDINGS OF FACT

1. Respondent is a non-resident insurance producer, carrying producer's license number 747208 in the State of Indiana. *Transcript pp. 7.*

2. On September 20, 2011, the Department received a letter from Transamerica Life Insurance Company ("TLIC") informing the Department that Respondent had been terminated for cause. *Exhibit 1.*

3. TLIC's letter stated it had determined Respondent "misrepresented the nature of the business he had submitted to TLIC and Ippolito falsely verified the presence of a licensed agent at the time of enrollments." Additionally, TLIC received numerous complaints, some indicating that they had never applied for coverage. *Exhibit 1.*

4. After receiving TLIC's letter, the Department's Enforcement Division created an enforcement case to look into the matter further. *Transcript pgs. 9-10.*

5. Investigator David Rose monitored Respondent's home state of Massachusetts as well as the other states in which Respondent was licensed to see if any administrative actions had been taken in response to TLIC's letter. *Transcript pp. 10.*

6. Kansas, Idaho, Connecticut, Arkansas, and South Dakota revoked Respondent's non-resident producer licenses in their respective states. *Exhibits 2, 3, 4, 5, and 6.*

7. Respondent's Kansas non-resident producer license was revoked on November 7, 2011. Respondent's Idaho non-resident producer license was revoked on February 7, 2012. Respondent's Connecticut non-resident producer license was revoked on March 22, 2012. Respondent's Arkansas non-resident producer license was revoked on April 9, 2012. Respondent's South Dakota non-resident producer license was revoked on April 27, 2012. *Exhibits 2, 3, 4, 5, and 6.*

8. As of May 23, 2012, Respondent had not reported any of the administrative actions cited in Paragraphs 6 and 7 to the Department. *Transcript pgs. 11-15.*

9. On April 30, 2012, the Department filed its Statement of Charges and Notice of Hearing. *Statement of Charges.*

10. Mr. Rose e-mailed Respondent to inform Respondent that he will be receiving a copy of the Department's Statement of Charges "sometime in the next few days." Mr. Rose also explained the nature of the charges and the potential sanctions. The Department mailed a copy of the Statement of Charges and Notice of Hearing to Respondent via certified mail, return receipt requested. *Exhibit 7.*

11. On or about May 4, 2012, Respondent received the Department's Statement of Charges and Notice of Hearing. *Exhibit 8; Transcript pgs. 17-18.*

12. On May 14, 2012, the Department received a letter from Respondent's attorney, Charles Emma, who was representing Respondent in a separate matter. Mr. Emma disclosed that he is not licensed to practice law in Indiana and that his letter was not to be construed as his appearance in this enforcement action. Mr. Emma requested that all future communications regarding these matters be forwarded to his attention only. *Exhibit 9.*

13. The Department has not had any other communications with Respondent or Mr. Emma regarding this enforcement action. *Transcript pgs. 20-21.*

14. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code and all procedures and rules set forth by such Act have been followed in this matter.

3. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.

4. Ind. Code § 27-1-15.6-12(b)(9) states “The commissioner may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes... [h]aving an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.”

5. Ind. Code § 27-1-15.6-17(a) states “[a] producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter.”

6. The Department has met its burden of proof by showing, by a preponderance of the evidence, that Respondent had a producer's license, or its equivalent, revoked in the following states: Kansas, Idaho, Connecticut, Arkansas, and South Dakota. Respondent's conduct constituted a violation of IC § 27-1-15.6-12(b)(9).

7. Respondent failed to report these administrative actions in violation of IC § 27-1-15.6-17(a); however, Respondent is not liable for failing to report the administrative action taken

against him in South Dakota because, as of the date of the hearing, thirty (30) days had not passed since the final resolution of that matter.

8. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. Respondent's license is revoked permanently, effective immediately.
2. Respondent is required to pay a civil penalty to the Department, in the amount of three thousand dollars (\$3,000.00), with said penalty to be suspended but due and payable upon any future application for a producer license.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 21st day of August, 2012.


Holly Williams
Administrative Law Judge

Distribution:

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South Hadley, MA 01075

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