

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NO. 11268-AG12-0419-028

IN THE MATTER OF:)
)
MICHELLE SUZANNE CARL)
49 Hickory Ridge Circle)
Cicero, Indiana 46034)
)
License No. 445233)
)
and)
)
INVESTORS TITLECORP)
111 Congressional Boulevard, Suite 250)
Carmel, Indiana 46032)
)
License No. 2560540)
)
Respondents.)

FILED

JUN 06 2013

**STATE OF INDIANA
DEPT. OF INSURANCE**

FINAL ORDER

The Indiana Department of Insurance (“Department”) and Respondents Michelle Suzanne Carl (“Carl”), individually and as owner of Investors Titlecorp, a licensed title insurance agency (“Investors”), signed an Agreed Entry which purports to resolve all issues regarding the above-captioned matter, and which has been submitted to the Commissioner of Insurance (the “Commissioner”) for approval.

The Commissioner, after reviewing the Agreed Entry, finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Commissioner hereby incorporates the Agreed Entry as if fully set forth herein, and approves and adopts in full the Agreed Entry as a resolution of this matter.

IT IS, THEREFORE, ORDERED, by the Commissioner:

1. That Investors shall voluntarily surrender resident producer organization license

number 2560540.

2. That the Department shall accept the voluntary surrender of Investors' resident producer organization license number 2560540 as full resolution of the above-captioned matter.

ALL OF WHICH IS ORDERED this 6th day of June, 2013.


Stephen W. Robertson,
Commissioner, Indiana Department of Insurance

Distribution:

Daniel L. Oliver, Esq.
Indiana Department of Insurance
311 West Washington St., Suite 103
Indianapolis, IN 46204-2787

Craig D. Doyle, Esq.
Doyle Legal Corporation
41 East Washington Street
Suite 400
Indianapolis, IN 46204

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Respondents.)

FILED

JUN 06 2013

**STATE OF INDIANA
DEPT. OF INSURANCE**

AGREED ENTRY

This Agreed Entry is entered into by Daniel L. Oliver, Attorney for and on behalf of the State of Indiana, Department of Insurance ("Department"), and Michelle Suzanne Carl ("Carl"), individually and as owner of Investors Titlecorp, a licensed title insurance agency ("Investors"). This Agreed Entry is subject to the review and approval of Stephen W. Robertson, Commissioner for the Indiana Department of Insurance.

WHEREAS, on April 19, 2012 the Department received notification from First American Title Insurance Company ("First American") that its agency contract with Investors was cancelled because of an unauthorized transfer from Investors' escrow account; and

WHEREAS, First American gave evidence to the Department which provided the basis for the cancellation; and

WHEREAS, on or about September 21, 2011, Investors received a "Payroll Tax Report," which indicated nine thousand five hundred thirty three dollars and nineteen cents (\$9,533.19) was or would be debited from its tax account, by "Paychex"; and

WHEREAS, upon information and belief, Paychex is a payroll accounting service used by business owners to outsource payroll, payroll tax, and human resources functions; and

WHEREAS, on or about September 29, 2011, nine thousand five hundred thirty three dollars and nineteen cents (\$9,533.19) was transferred from Investors' PNC escrow account to Investors operating account, then to Paychex; and

WHEREAS, on or about October 21, 2011, nine thousand five hundred thirty three dollars and nineteen cents (\$9,533.19) was deposited to Investors' escrow account for a reason described as "Investors Titlecorp"; and

WHEREAS, on or about April 20, 2012, representatives from the Department went to Investors' office to conduct an investigation and serve an Emergency Cease and Desist Order; and

WHEREAS, the investigation revealed the improper wire was, in fact, sent to Paychex for payroll taxes by a person employed by Investors as a controller; and

WHEREAS, Carl, owner of Investors, had no knowledge of this unauthorized transfer, but had ultimate supervisory responsibility over the escrow account; and

WHEREAS, the controller is not a licensed insurance producer and played no part in the sale, solicitation or negotiation of insurance; and

WHEREAS, upon questioning, the controller admitted sending the wire without Carl's knowledge or approval; and

WHEREAS, on May 23, 2012, Respondent, through counsel, filed a Response to Motion for Emergency Cease and Desist Order and a Request For Evidentiary Hearing; and

WHEREAS, pursuant to Ind. Code 4-21.5-4-4, the Department was obligated to, as quickly as practical, set the matter for evidentiary hearing; and

WHEREAS, the time to set the matter for hearing lapsed and the matter was not set for evidentiary hearing; and

WHEREAS, the Department reviewed this lapse of time for setting evidentiary hearing with counsel for Respondent; and

WHEREAS, counsel for Respondent has agreed that an evidentiary hearing was no longer required and Respondent and the Department agree to move forward in the proceedings, notwithstanding the lapse of time for setting for evidentiary hearing; and

WHEREAS, Carl is authorized to act on behalf of the agency and obligate it to perform in accordance with this agreement; and.

IT IS THEREFORE NOW AGREED by and between the parties as follows:

1. The Commissioner has jurisdiction as to the subject matter and as to the Respondent in this matter.
2. This Agreed Entry is executed voluntarily. Respondent, knowingly and voluntarily waives its right to a public hearing on this matter. Respondent waives its right to judicial review of this matter.
3. Investors agrees voluntarily to surrender its license numbered 2560540, and has ceased issuing commitments, policies, or search products.
4. The Department agrees to accept Respondents' compliance with the terms of this Agreed Entry as full resolution of this matter. This Agreed Entry completely resolves this case under Cause No. 11268-AG12-0419-028 upon acceptance and approval by the Commissioner.
5. Should this Agreed Entry not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Entry by the Commissioner shall

not unfairly or illegally prejudice the Commission from further participation in or resolution of these proceedings.

5/29/2013
Date Signed

[Signature]
Daniel L. Oliver, Attorney
Indiana Department of Insurance

May 28, 2013
Date Signed

Michelle S. Carl, President
Michelle Suzanne Carl, individually and as President and
Owner of Investors Titlecorp

STATE OF INDIANA)
) SS:
COUNTY OF MARION)



Before me a Notary Public for MARION County, State of Indiana
personally appeared Michelle Suzanne Carl, in her individual and corporate capacity as President
and and as owner of Investors Titlecorp., and being first duly sworn by me upon her oath, says
that the facts alleged in the foregoing instrument are true. Signed and sealed this 28 day of
May, 2013.

[Signature]
Craig D. Doyle, Notary Public

Commission Expires: 7-9-17
County of Residence: MARION

Distribution:

Return executed originals to:

INDIANA DEPARTMENT OF INSURANCE
Enforcement Division, Suite 300
Attn: Daniel L. Oliver, Esq.
311 West Washington Street
Indianapolis, IN 46204-2787
317/234-5155 - telephone
317/234-2101 – facsimile

Craig D. Doyle Esq.
Doyle Legal Corporation
41 East Washington Street
Suite 400
Indianapolis IN 46204

STATE OF INDIANA)
) SS:
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BEFORE THE INDIANA
COMMISSIONER of INSURANCE

CAUSE NUMBER: 11268-AG12-0419-028

IN THE MATTER OF:)

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License No. 445233)

and)

INVESTORS TITLECORP)
111 Congressional Boulevard)
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Carmel, Indiana 46032)

License No. 2560540)

Respondents.)

FILED

APR 20 2012

STATE OF INDIANA
DEPT. OF INSURANCE

MOTION FOR EMERGENCY CEASE AND DESIST ORDER

The Enforcement Division of the Indiana Department of Insurance (“Department”), pursuant to Ind. Code § 4-21.5-4, Ind. Code § 27-1-15.6 et seq., and Ind. Code § 27-4 et seq., files its Motion for an Emergency Cease and Desist Order against Michelle Suzanne Carl and Investors Titlecorp (collectively referred to as “Respondents”), and states:

1. Respondents Michelle Suzanne Carl (“Carl”) and Investors Titlecorp (“Investors”) are licensed resident insurance producers holding license numbers 445233 and 2560540, respectively.

2. Carl is the President of Investors and, as such, is ultimately responsible for the lawful operation of the agency.

3. On or about September 21, 2011, Investors received a "Payroll Tax Report," which indicated \$9,533.19 was or would be debited from its tax account, by "Paychex."

4. Upon information and belief, Paychex is a payroll accounting service used by many business owners to outsource payroll, payroll tax and human resources functions.

5. On or about September 29, 2011, \$9,533.19 was transferred from Investors' PNC escrow account to Paychex.

6. On or about October 21, 2011, \$9,533.19 was deposited to Investors' escrow account for a reason described as "Investors Titlecorp." Upon information and belief, this amount was deposited to Investors' escrow account after the funds were improperly withdrawn and sent to Paychex approximately one month earlier.

7. Money held in Investors' escrow account does not belong to Respondents, cannot be used for personal or business purposes and should only be disbursed in compliance with instructions from lenders, buyers and sellers or the owners of the funds.

8. On April 19, 2012, First American Title Insurance Company ("First American") notified the Department that it was cancelling Investors' contract for cause due to the unauthorized transfer of funds from the escrow account.

9. Based upon review of the information provided to the Department by First American with the cancellation notification, it appears the escrow account could have a shortage of approximately \$5,588.55.

10. First American also reported that Investors has a large outstanding premium balance on which it was making payments.

11. First American is Investors' only underwriter; consequently, after the cancellation, Investors will not have an underwriter and will not be authorized to write title insurance or issue closing protection letters.

12. Pursuant to Ind. Code §§ 4-21.5-4-1(a) & 2(a)(1), the Commissioner may, in an emergency, issue orders without notice or an evidentiary proceeding. Upon issuance of an emergency order, and upon the request of Respondents, the Department shall, as quickly as is practicable, set the matter for an evidentiary hearing pursuant to Ind. Code § 4-21.5-4-4.

13. Respondents have violated Indiana insurance laws and regulations in violation of Ind. Code § 27-1-15.6-12(b)(2).

14. Respondents improperly withheld, misappropriated, and/or converted money received in the course of doing insurance business in violation of Ind. Code § 27-1-15.6-12(b)(4).

15. Respondents used fraudulent, coercive, and/or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana in violation of Ind. Code § 27-1-15.6-12(b)(8).

16. An emergency exists in that Respondents' actions demonstrate a willingness to misappropriate funds from the escrow account or a lack of control over the handling of funds in the escrow account, which are not intended for personal or business use. Even considering the misappropriation was temporary and the funds were replaced, the conduct could lead, or could have led, to considerable consumer harm. Without this action, there is no guarantee the conduct will not be repeated.

WHEREFORE, the Enforcement Division requests that the Commissioner issue an Emergency Cease and Desist Order against Respondents, pursuant to Ind. Code § 4-21.5-4-2, whereby Respondents immediately CEASE AND DESIST from:

1. Any and all acts relating to the business of insurance;
2. Any and all acts in conjunction with accepting deposits to, and disbursing funds from, escrow account #4617737676 at PNC Bank unless they pertain to closings which occur on or before April 20, 2012 and are in strict accordance with instructions provided by the owner of said funds; and for all other necessary and proper relief.



Nikolas P. Mann, Attorney No. 26665-29
Deputy General Counsel
Enforcement Division

Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, IN 46204-2787
Phone: (317) 234-5888
Facsimile: (317) 232-5251

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Carmel, Indiana 46032)
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License No. 2560540)
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Respondents.)

FILED

APR 20 2012

STATE OF INDIANA
DEPT. OF INSURANCE

ORDER GRANTING

MOTION FOR EMERGENCY CEASE AND DESIST ORDER

The Commissioner of the Indiana Department of Insurance (“Commissioner”), having reviewed the Enforcement Division’s Motion for Emergency Cease and Desist Order, and being otherwise duly advised, now finds as follows:

FINDINGS OF FACT

1. The Indiana Department of Insurance (“Department”) is authorized to regulate the practice of insurers in Indiana pursuant to Ind. Code § 27-1 et seq.

2. The Commissioner may conduct proceedings and issue emergency orders pursuant to Ind. Code §§ 4-21.5-4-1(a) & 2(a)(1).

3. Respondents Michelle Suzanne Carl ("Carl") and Investors Titlecorp ("Investors") are licensed resident insurance producers holding license numbers 445233 and 2560540, respectively.

4. Carl is President of Investors and, as such, is authorized to act on behalf of the agency and obligate it to perform in accordance with this Order.

5. Money was transferred from Investors' escrow account for the purpose of paying payroll and/or payroll taxes.

6. The conduct at issue in the Motion for Emergency Cease and Desist Order demonstrates a willingness to place consumers at risk of harm.

CONCLUSIONS OF LAW

1. Respondents violated Indiana insurance laws and regulations in violation of Ind. Code § 27-1-15.6-12(b)(2).

2. Respondents improperly withheld, misappropriated, and/or converted money received in the course of doing insurance business in violation of Ind. Code § 27-1-15.6-12(b)(4).

3. Respondents used fraudulent, coercive, and/or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana in violation of Ind. Code § 27-1-15.6-12(b)(8).

4. An emergency exists in that funds held in an escrow account must not be disbursed unless done so at the instruction of the owners of the funds.

5. In an emergency, the Commissioner may issue appropriate orders without notice or an evidentiary proceeding pursuant to Ind. Code §§ 4-21.5-4-1 & 2(a).

ORDER

It is, therefore, ORDERED, that Respondents must immediately CEASE AND DESIST from:

1. Any and all acts relating to the business of insurance;
2. Any and all acts in conjunction with accepting deposits to, and disbursing funds from, escrow account #4617737676 at PNC Bank unless they pertain to closings which occur on or before April 20, 2012 and are in strict accordance with instructions provided by the owner of said funds.

Pursuant to Ind. Code § 4-21.5-4-2, this Order remains effective for 90 days commencing on the date this Order is issued.

Respondents are hereby notified of their right to a hearing concerning this Order pursuant to Ind. Code § 4-21.5-4-4.

INDIANA DEPARTMENT OF INSURANCE

DATE: 4-20-12


Stephen W. Robertson, Commissioner

Distribution to:

Nikolas P. Mann, Deputy General Counsel
Enforcement Division
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

Michelle Suzanne Carl
Investors Titlecorp
111 Congressional Boulevard
Suite 250
Carmel, Indiana 46032

STATE OF INDIANA)
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111 Congressional Boulevard, Suite 250)
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License No. 2560540)

Respondents.)

FILED

MAY 23 2012

STATE OF INDIANA
DEPT. OF INSURANCE

**RESPONSE TO MOTION FOR EMERGENCY CEASE AND DESIST ORDER
AND REQUEST FOR EVIDENTIARY HEARING**

Come now the Respondents, Michelle Suzanne Carl ("Carl") and Investors Titlecorp ("Investors"), and for their Response to the Motion for Emergency Cease and Desist Order and Request for Evidentiary Hearing, state as follows:

RESPONSE

1. Respondents admit the material allegations contained in paragraph 1, 2, 3, 4, 5, 6 and 7 of the Motion.
2. Respondents are without sufficient information at this time to be able to admit or deny the allegations contained in paragraphs 8, 9 and 10 of the Motion.
3. Although Carl admits that she is President of Investors and responsible for the acts of the licensed agency, she cannot be ultimately responsible for all unauthorized acts of any

employee not done at her direction, and therefore denies the allegations contained in paragraph 2 to such an effect.

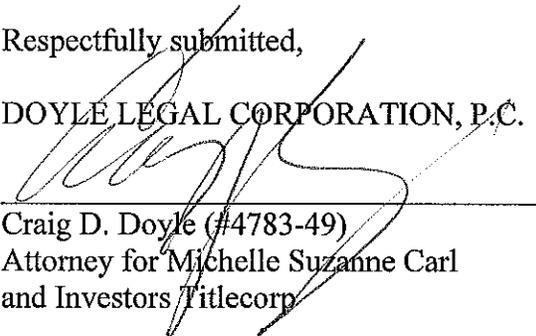
4. Respondents admit the material allegations contained in paragraph 6 to the extent that funds were withdrawn without proper authorization, but deny that this was the intentional conduct of the Respondents.

5. Respondents deny the allegations contained in paragraphs 13, 14, 15 and 16 of the Motion.

WHEREFORE, Carl and Investors request that the CEASE AND DESIST Motion be denied such that the Respondents can continue in the business of insurance, and for all other relief that would be just and proper.

Respectfully submitted,

DOYLE LEGAL CORPORATION, P.C.

By: 

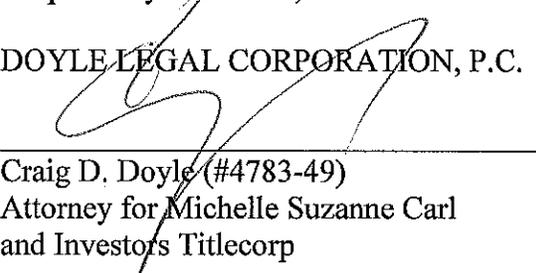
Craig D. Doyle (#4783-49)
Attorney for Michelle Suzanne Carl
and Investors Titlecorp

REQUEST FOR EVIDENTIARY HEARING

Come now the Respondents, and each of them, and pursuant to Ind. Code § 4-21.5-4-4 request a hearing on the Order rendered April 20, 2012, granting the Motion for Emergency Cease and Desist Order, so that the Order can be determined to be void, terminated or modified.

Respectfully submitted,

DOYLE LEGAL CORPORATION, P.C.

By: 

Craig D. Doyle (#4783-49)
Attorney for Michelle Suzanne Carl
and Investors Titlecorp

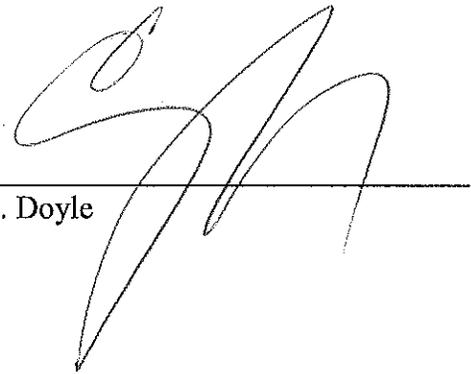
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being served upon the following, by U.S. first class mail, postage prepaid, this 18th day of May, 2012:

Nikolas P. Mann
Deputy General Counsel
Enforcement Division
INDIANA DEPARTMENT
OF INSURANCE
311 W. Washington Street, #103
Indianapolis, IN 46204-2787

Stephen W. Robertson
Commissioner
INDIANA DEPARTMENT
OF INSURANCE
311 W. Washington Street, #103
Indianapolis, IN 46204-2787

Craig D. Doyle

A handwritten signature in black ink, appearing to be 'CD', written over a horizontal line.

DOYLE LEGAL CORPORATION, P.C.
41 E. Washington Street, Suite 400
Indianapolis, IN 46204
Phone: (317) 264-5000
Facsimile: (317) 264-5400