

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER: 7699-AG09-0105-002

IN THE MATTER OF:

Jose Ernest Murcia,
 Producer/Respondent.

713 West Darrell Drive
Muncie, Indiana 47303

Type of Agency Action: Enforcement

FILED

JUL 23 2009

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On May 28, 2009, the Administrative Law Judge, filed his 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. Respondent has not 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, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent shall pay a fine in the amount ten thousand dollars (\$10,000.00) for violation of the Commissioner's Final Order dated December 21, 2007, payable within sixty (60) days.
2. Respondent shall pay a fine in the amount ten thousand dollars (\$10,000.00) total for violation of the Commissioner's Final Order's dated March 4, 2008 and September 12, 2008, payable within ninety (90) days.

ALL OF WHICH IS ORDERED by the Commissioner this 23rd day of July, 2009.



Carol Cutter, Commissioner
Indiana Department of Insurance

Copies to:

Jose Ernest Murcia
713 West Darrell Drive
Muncie, Indiana 47303

Laura Levenhagen, Attorney
Indiana Department of Insurance
311 W. Washington Street
Suite 300
Indianapolis, Indiana 46204

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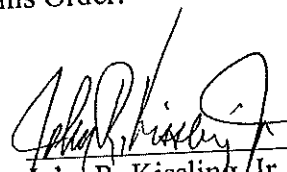
MAY 28 2009

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order are deemed filed as of this date.

To preserve an objection to this order for judicial review, you must object to the order in a writing that: 1) identifies the basis for your objection with reasonable particularity; and 2) is filed with the Commissioner of the Department of Insurance within eighteen (18) days from the date of this Order.


John R. Kissling, Jr.
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER: 7699-AG09-0105-002

IN THE MATTER OF:

Jose Ernest Murcia
Respondent.

713 West Darrell Drive
Muncie, IN 47303

Type of Agency Action: Enforcement

FILED

MAY 23 2009

STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge, John R. Kissling, Jr., having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Jose Ernest Murcia ("Respondent"), which came to be heard on the 3rd day of March, 2009 at 10:05 a.m.

The Indiana Department of Insurance was represented by counsel, Laura Willett. Respondent chose not to appear and was unrepresented by counsel. Witnesses 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 and Conclusions of Law, and issues his Recommended Order as follows:

FINDINGS OF FACT

1. Respondent was properly notified of the hearing date and time by U.S. Certified Mail #7004 1160 0000 3841 8955; certified mail returned "declined". Notice was sent via First Class mail and two (2) articles printed in home town newspaper regarding hearing date and time. (Transcript pgs. 19 & 20).
2. Respondent's license was placed on probation and ordered to make restitution in monthly installments by the Commissioner's Final Order dated December 21, 2007. Respondent has made one payment which has violated the Commissioner's Final Order. (Exhibit A).
3. Respondent's license was permanently revoked, ordered to pay restitution, and to pay a fine for violation of Indiana Insurance Law by the Commissioner's Final Order dated March 4, 2008. (Exhibit B).
4. Respondent was ordered to pay a fine for violation of Indiana Insurance Law and ordered to pay restitution by the Commissioner's Final Order dated September 12, 2008. (Exhibit C).
5. Respondent has not complied with three (3) of the Commissioner's Final Orders which is a violation of I.C. §27-1-15.6-12.
6. Respondent after his license was permanently revoked in March of 2008 received employment from Janella Webster in the fall of 2008. Respondent would set up appointments with potential clients and accompany Ms. Webster on the appointment to discuss the insurance products with the clients. Ms. Webster stated "He did a lot of the talking" "I only kept thirty (\$30.00) dollars of whatever I received and gave him the rest" a violation of Indiana Code §27-1-15.6-3. (Transcript pgs. 30-34).

CONCLUSIONS OF LAW

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

to this action.

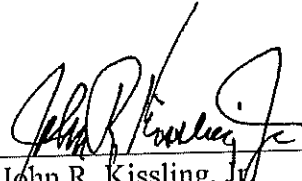
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. The Commissioner has the discretionary authority to revoke the Respondent's license to sell insurance and to fine Respondent.
4. The Department has met its burden in showing by a preponderance of the evidence that Respondent's conduct is contrary to the Indiana Insurance Code and that disciplinary action is in order.
5. Findings of Fact that can be adopted as Conclusions 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 be required to pay a fine in the amount ten thousand dollars (\$10,000.00) for violation of the Commissioner's Final Order dated December 21, 2007.
2. Respondent be required to pay a fine in the amount ten thousand dollars (\$10,000.00) for violation of all three (3) of the Commissioner's Final Order's.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 28TH day of May, 2009.


John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Laura Willett, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 300
Indianapolis, IN 46240

Jose Ernest Murcia
713 West Darrell Drive
Muncie, Indiana 47303