

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 7707-AG09-0105-003

IN THE MATTER OF:

Janella Webster
Respondent

402 E South B Street
Gas City, IN 46933

FILED

DEC 29 2009

STATE OF INDIANA
DEPT. OF INSURANCE

Indiana Resident License No.: 392592

Type of Agency Action: Enforcement

FINAL ORDER

On October 29, 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 her 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:

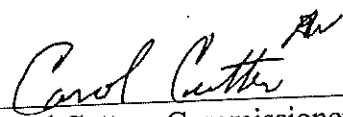
1. Respondent's insurance license number 392592 is suspended for a period of two (2) years from the date of the Commissioner's Final Order. Respondent's request for reinstatement after two (2) years is subject to:

a.) Timely payment of a fine in the amount of one thousand five hundred (\$1,500.00) dollars within ninety (90) days.

b.) Respondent reapplying and passing the exam for a producer license.

c.) Meeting the requirements for selling Medicare Advantage Plans as of the date of application. (If Respondent desires to sell Medicare Advantage Plans).

ALL OF WHICH IS ORDERED by the Commissioner this 29 day of December, 2009.


Carol Cutter, Commissioner
Indiana Department of Insurance

Copies to:

Nick Mann, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 300
Indianapolis, IN 46240

Janella Webster
402 E South B Street
Gas City, IN 46933

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CAUSE NUMBER: 7707-AG09-0105-003

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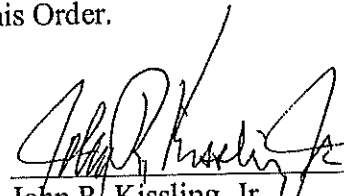
Indiana Resident License No.: 392592

Type of Agency Action: Enforcement

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: 7707-AG09-0105-003

IN THE MATTER OF:)

Janella Webster)
Respondent)

402 E South B Street)
Gas City, IN 46933)

FILED

OCT 21 2009

Indiana Resident License No.: 392592

STATE OF INDIANA
DEPT. OF INSURANCE

Type of Agency Action: Enforcement

**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 Janella Webster ("Respondent"), which came to be heard on the 30th day of July, 2009 at 10:02 a.m. in the second floor conference room at the offices of the Indiana Department of Insurance ("Department"), 311 W. Washington St., Indianapolis, Indiana.

The Indiana Department of Insurance was represented by counsel, Nick Mann. Respondent was present and 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 has an resident producer license, license number 392592.
2. Respondent was sent notification of the hearing date and time by U.S. Certified Mail #7004 1160 0000 3839 5591.
3. Statement of Charges was filed by the Department on January 9, 2009, alleging that Respondent had violated Indiana Code §27-1-15.6-13(a) which is prohibition against sharing commissions with an unlicensed agent. Respondent also violated Indiana Code §27-1-15.6-12(b)(8) which is prohibition against financially irresponsible, untrustworthy actions in business in Indiana and Indiana Code §27-1-15.6-12(b)(12) which is knowingly accepting insurance business from an individual who is not licensed. (Exhibit A).
4. On March 3, 2009 a hearing was conducted on Jose Ernest Murcia ("Murcia") employee of Respondent. Murcia's license was permanently revoked by Final Order of the Commissioner on March 4, 2008. Respondent gave testimony at the said hearing that she had employed Murcia as a trainer and scheduler he was paid to set up appointments to meet potential customers and would pay additional amount if appointments resulted in a sale of an insurance product. Murcia also would accompany Respondent on appointments to have him assess potential customers insurance needs, make recommendations of insurance products, explain insurance products to potential customers and handle the selling, soliciting and negotiation of insurance product. (Exhibit B; hearing transcript).

5. Respondent signed an Agreed Entry on March 3, 2009 after the above referenced hearing admitting to the fact that she was aware that Murcia's license was permanently revoked. A Final Order was signed by the Commissioner adopting the Agreed Entry on March 13, 2009. Respondent admitted that Murcia was hired as a trainer and scheduler; he was paid for setting up appointments with an additional amount if appointments resulted in a sale. Murcia accompanied Respondent on appointments to assess potential client; and that Murcia sold, solicited and negotiated insurance products and then Respondent would sign her name to the applications. Respondent admitted that Murcia explained insurance products to her and potential clients for the purpose of selling those products. . (Exhibit C).
6. Respondent had second thoughts on the Agreed Entry and asked Representative Turner to help her. Together Respondent and Representative Turner petitioned former Commissioner James Atterholt to get Respondent out of the deal she had agreed to. (Transcript pg. 42).
7. On May 29, 2009 an Order Vacating Final Order and Granting Hearing was signed by former Commissioner James Atterholt. (Exhibit F).
8. On June 2, 2009 an affidavit was executed and signed by Nancy Wilkins who notarized the Agreed Entry that Respondent had signed and was a witness to the explaining and signing of the Agreed Entry. The affidavit stated that to Ms. Wilkins opinion that it was a professional encounter, everyone and Respondent was calm and was not threatened into signing the Agreed Entry. Ms. Wilkins also stated that Respondent stated that she understood what she was signing and that she was waiving her right to a hearing. (Exhibit G).

9. On August 15, 2008 Respondent wrote a check to Murcia off her credit union account for the amount of three hundred ninety three dollars and eighty four cents (\$393.84). (Exhibit H).
10. On August 22, 2008 Respondent wrote a check to Murcia off her credit union account in the amount of one hundred and fifty dollars (\$150.00). (Exhibit I).
11. On August 27, 2008 Respondent wrote a check to Murcia off her credit union account in the amount of fifty-six dollars (\$56.00). (Exhibit J).
12. On September 12, 2008 Respondent wrote a check to Murcia off her credit union account in the amount of two hundred thirty-three dollars and ninety three cents (\$233.93). (Exhibit K).

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. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.
5. Respondent violated Indiana Code §27-1-15.6-13(a) which is prohibition against sharing commissions with an unlicensed agent.

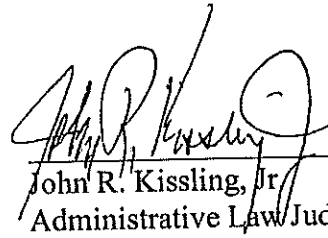
6. Respondent violated Indiana Code §27-1-15.6-12(b)(12) which is knowingly accepting insurance business from an individual who is not licensed.
7. The Department has met its burden in showing by a preponderance of the evidence that Respondent's conduct is contrary to the Indiana Insurance Code and that disciplinary action is in order.
8. 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's insurance license number 392592 shall be suspended for a period of two (2) years from the date of the Commissioner's Final Order. Respondent's request for reinstatement after two (2) years is subject to:
 - a.) Timely payment of a fine in the amount of one thousand five hundred (\$1,500.00) dollars within ninety (90) days of the Commissioner's Final Order.
 - b.) Respondent reapplying and passing the exam for a producer license.
 - c.) Meeting the requirements for selling Medicare Advantage Plans as of the date of application. (If Respondent desires to sell Medicare Advantage Plans).

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 29th day of October, 2009.



John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Nick Mann, Attorney
Indiana Department of Insurance
311 West Washington St., Suite 300
Indianapolis, IN 46204

Janella Webster
402 E. South B Street
Gas City, IN 46933