

STATE OF INDIANA
COUNTY OF MARION

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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 9053-AG10-0505-086

IN THE MATTER OF:

Carol Y. Kellum

Respondent

2858 Michigan Ave.
St. Louis, MO 63118

Type of Agency Action: Enforcement

Indiana Resident Producer License No. 449968

FILED

OCT 04 2010

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On September 8, 2010, the Administrative Law Judge, Doug Webber, 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 of Recommended Order on Respondent by mailing the same to his home address of record.

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.

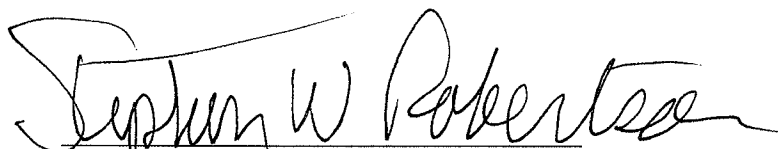
THEREFORE, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's non-resident Indiana 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 SWR
~~September~~, 2010.



Stephen W. Robertson,
Acting Commissioner
and Executive Director
Indiana Department of Insurance

Distribution:

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

Carol Y. Kellum
2858 Michigan Ave.
St. Louis, MO 63118

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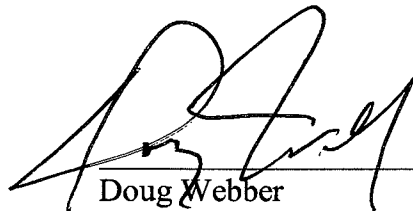
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STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties to 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.


Doug Webber
Administrative Law Judge

STATE OF INDIANA
COUNTY OF MARION

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CAUSE NUMBER: 9053-AG10-0505-086

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STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge John R. Kissling, Jr.¹ requested that counsel for the Department submit Proposed Findings of Fact, Conclusions of Law and Recommended Order. The Department hereby timely submits its Proposed Findings of Fact, Conclusions of Law and Recommended Order.

The Administrative Law Judge Doug Webber, having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Carol Y. Kellum ("Respondent"), which came to be heard on June 10 and June 14, 2010, at the Indiana Department of Insurance, 311 West Washington St., Indianapolis, Indiana 46204.

The Indiana Department of Insurance was represented by counsel, Nikolas P. Mann. Respondent attended by telephone on June 10, 2010, but was not represented by counsel. Respondent

¹ Administrative Law Judge John R. Kissling, Jr. resigned effective August 3, 2010. Doug Webber, Chief Legal Counsel has assumed the role of Administrative Law Judge in this matter.

did not attend on June 14, 2010, nor was she represented 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 is a licensed non-resident insurance producer, duly licensed by the State of Indiana, holding license number 449968, effective February 16, 2004.
2. Respondent was served with notice of hearing by certified mail at the address of record with the Department. Respondent attended the hearing on June 10, 2010 by telephone. Respondent requested and received continuance of the hearing, which was granted and scheduled for June 14, 2010. (See Transcript Part I at 21 and 22). Respondent failed to attend the continued hearing on June 14, 2010.
3. On or about September 26, 2000, Respondent pled guilty to Fraudulently Stopping Payment, a class A misdemeanor, in the Circuit Court of St. Louis County, Missouri. (See Exhibit 1 and Transcript Part I at 9 and 10).
4. On or about September 3, 2003, Respondent applied for a non-resident Indiana producer license. On her application she did not disclose any criminal convictions. (See Exhibit 5 and Transcript Part II at 10 and 11).
5. Respondent's Indiana non-resident producer license was issued effective February 16, 2004. (See Exhibit 4 and Transcript Part II at 10 and 11).
6. On or about September 13, 2006, Respondent signed a stipulation whereby her California

producer license was surrendered in lieu of revocation, for failing to disclose her criminal conviction to the California Insurance Commissioner. (See Exhibit 3 and Transcript Part II at 7-10).

7. On or about January 11, 2010, the Department received a letter from GMAC Insurance that Respondent had been terminated for cause. The letter stated that she had not disclosed the loss of her California license to her employer. (See Exhibit D and Transcript Part I at 13-15).

8. On or about February 4, 2010, the Department received a copy of GMAC Insurance's Investigative Report. The Report revealed that Respondent had continued to sell insurance in California despite the loss of her California license. (See Exhibit 3 and Transcript Part II at 7-8).

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 permanently revoke 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 Indiana Insurance Code and that disciplinary action to include revocation of license is in order.

5. Respondent acted in a manner contrary to Indiana Code § 27-1-15.6-12(b)(1) by failing to disclose her criminal history on her application for licensure in Indiana.

6. Respondent acted in a manner contrary to Indiana Code § 27-1-15.6-17(a) by failing to notify the Department of the administrative action against her California license within thirty (30) days of the final disposition of the matter.

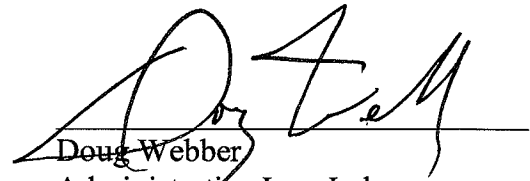
7. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

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 non-resident Indiana producer license should be permanently revoked.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 14 day of September, 2010.


Doug Webber
Administrative Law Judge

Distribution:

Nikolas P. Mann, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 300
Indianapolis, IN 46204

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St. Louis, MO 63118