

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 7002-AD11-0223-005

IN THE MATTER OF:)

Jacquelyn Drago)
Respondent,)

5845 Cleveland St.)
Merrillville, Indiana 46401)

Type of Action: Enforcement)
Indiana Insurance License No. 2592190)

FILED

SEP 12 2011

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 3, 2011, the appointed Administrative Law Judge, Debra M. Webb, filed her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

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 the listed business address.

The Department has complied with the notice requirements of Indiana Code Section 4-21.5-3-17.

The Respondent filed an objection on August 25, 2011 with the Commissioner regarding the Administrative Law Judge's Recommended Order. Specifically, the Respondent cited Indiana Code §34-11-2-3 claiming that the two year statute of limitations had run prior to the date the Department received the complaint against Respondent. On September 1, 2011, the Department responded to Respondent's

objection citing binding precedent demonstrating Indiana Code §34-11-2-3 as inapplicable to insurance producers.

THEREFORE, the Commissioner of Insurance, being fully advised, finds the Respondent's objection unpersuasive and now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and HEREBY ORDERS:

1. The Commissioner's Administrative Order of March 10, 2011 to be upheld.

ALL OF WHICH IS ORDERED THIS 12th day of September 2011.



Stephen W. Robertson,
Commissioner
Indiana Department of Insurance

Distribution:

Nikolas P. Mann, Deputy Commissioner
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46240

Carl Jones, Attorney
3759 Pierce Street
Gary, Indiana 46408

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
SS: COMMISSIONER OF INSURANCE

CAUSE NUMBER: 7002-AD11-0223-0053

IN THE MATTER OF:)

JACQUELYN DRAGO)
RESPONDENT,)

5845 CLEVELAND STREET)
MERRILLVILLE, INDIANA)

TYPE OF AGENCY ACTION:)
ENFORCEMENT)

FILED

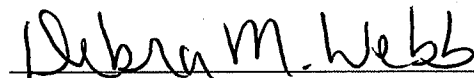
AUG 03 2011

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 of your objection with reasonable particularity; and 2) is filed with the ultimate authority for the Final Order, Stephen W. Robertson, Commissioner of the Indiana Department of Insurance, within eighteen (18) days from the date stamped on this Order.



Debra M. Webb

Administrative Law Judge

Distribution:

Carl Jones, Attorney
3759 Pierce Street
Gary, Indiana 46408

Laura Levenhagen, Attorney
Indiana Department of Insurance
311 W. Washington Street, Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER: 7002-AD11-0223-005

IN THE MATTER OF:)

Jacquelyn Drago)
Respondent,)

5845 Cleveland St.)
Merrillville, Indiana 46401)

Type of Agency Action: Enforcement)
Indiana Insurance License No. 2592190)

FILED

AUG 03 2011

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT
CONCLUSION OF LAW AND RECOMMENDED ORDER

Administrative Law Judge, Debra M. Webb, having considered and reviewed all the evidence, now renders a decision in the matter of Respondent Jacquelyn Drago ("Respondent"). This matter came to be heard on June 22, 2011, at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana upon motion of Respondent Jacquelyn Drago.

The Enforcement Division of the Indiana Department of Insurance was represented by counsel, Laura Levenhagen. The Respondent, Jacquelyn Drago, appeared in person and was represented by counsel, Carl Jones. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

The Administrative law Judge, having heard the testimony of the witnesses and having reviewed the exhibits introduced into evidence, and having considered the Indiana Department of Insurance Commissioner's Administrative Order Notice of Nonrenewal of License ("Commissioner's Order") and Respondent's Written Demand for Hearing and Affirmative

Defenses now makes the following Findings of Fact, Conclusions of Law and issues her Recommended Order.

FINDINGS OF FACT

1. Respondent has maintained an address at 5845 Cleveland Street, Merrillville, Indiana since 2000. *Transcript p. 10.*
2. Respondents original license was issued on March 16, 1996. *Transcript p. 25*
3. Respondent testified that she was aware that her license is to be renewed every two years. *Transcript p. 10*
4. On March 31, 2002 Respondent's license expired for failure to renew and pay the forty dollar (\$40.00) renewal fee. *Commissioner's Order filed March 10, 2011.*
5. Respondent testified that she was unaware that her license had expired until 2004. Respondent called the Indiana Department of Insurance to renew her license and was informed that she no longer qualified for license renewal but must go back and take a pre-licensing test. *Transcript p 10.*
6. Respondent attended a pre-licensing course and received a certificate in December of 2005. *Exhibit 2.*
7. Respondent was diagnosed with Stage 3 breast cancer and underwent chemotherapy and/or radiation therapy from January 2006 through November 2006. *Transcript pp 13 -16.*
8. Respondent testified that she relied on her now deceased husband, the CEO of Maximilian to take care of her license renewal. *Transcript p. 16.*
9. On March 10, 2011 the Commissioner of the Indiana Department of Insurance ("Commissioner") issued an order that Respondent's license shall not be renewed. *Commissioner's Order filed March 10, 2011.*

10. Respondent requested this hearing pursuant to Indiana Code §27-1-15.6-12(d) via written demand filed with the Indiana Department of Insurance on May 2, 2011.
11. Respondent testified that she did closings in 2007. *Transcript p. 18.*
12. Respondent testified that she probably closed loans for eight first mortgages referenced in said Commissioner's Order. *Transcript p. 20.*
13. Respondent testified that she did not intentionally fail to pay the \$40.00 fee or not to make application or not follow the regulations set by the state. *Transcript p. 22.*
14. Respondent testified that she is not reapplying for an insurance application nor does she have any intention of ever reapplying for an insurance application [license]. *Transcript p. 23.*
15. Respondent testified that she was licensed on March 18, 1996 and was aware that the license needed to be renewed every two years. *Transcript p. 25.*
16. Respondent testified that she verified documents, handed out checks and dispersed funds at the closing table after being aware that she was not licensed since 2004. *Transcript p. 26.*
17. Respondent submitted an application to the Indiana Department of Insurance for individual insurance producer license acknowledging that her license had expired on March 31, 2002. Said application bears an Indiana Department of Insurance received date of January 23, 2006 and January 11, 2007. *Exhibit 2.*
18. Respondent's application for licensure was not approved on January 11, 2007 for incomplete pre-licensing requirements. *Exhibit A.*
19. During the course of an investigation of Maximilian Title, in February 2011 Investigator Logsdon discovered that Respondent had closed mortgages while she was not licensed. *Transcript pp. 36-38.*

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. Service of process was completed via the United States mail in compliance with the statute and due process requirements.
4. Respondent was the moving party and therefore had the burden of proof.
5. Before approving an application submitted for licensure the Commissioner must find that the applicant has completed a certified pre-licensing course of study and paid the nonrefundable fee. Indiana Code §27-1-15.6-6.
6. An insurance producer license remains in effect unless revoked or suspended, as long as the renewal fee is paid. Indiana Code §27-1-15.6-7(d).
7. The Commissioner may reprimand, levy a civil penalty, revoke an insurance producer's license, or refuse to issue or renew an insurance producer license. Indiana Code §27-1-15.6-12(b).
8. Any person who conducts a real estate closing must be a licensed insurance producer. Indiana Code §27-1-15.6-18(4).
9. Respondent continued to perform services as a licensed producer for several years following knowledge that her license had expired. Indiana Code §27-1-15.6-12(b)(8).
10. The Respondent's failure to pay the nonrefundable renewal fee, her continuing to conduct closings at Maximilian Title following knowledge that her license had expired, and handing out checks and disbursing funds while unlicensed demonstrates incompetence and untrustworthiness.

11. Respondent failed to meet her burden of proof that the Commissioner's Administrative Order Notice of Nonrenewal of License was in error.

12. Findings of Fact that can be adopted as a Conclusion of Law is 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. The Commissioner's Administrative Order of March 10, 2011 should be upheld.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 3rd day of August 2011.



Debra M. Webb
Administrative Law Judge

Distribution:

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