

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NO. 10207-AG11-0411-068

IN THE MATTER OF:)
)
Michelle O'Reilly)
Respondent.)
)
18722 Northridge Dr.)
Noblesville, IN 46060)

FILED

DEC 02 2011

STATE OF INDIANA
DEPT. OF INSURANCE

Type of Agency Action: Enforcement

Insurance License No. 2703990

FINAL ORDER

On September 1, 2011, the Administrative Law Judge, filed her 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.

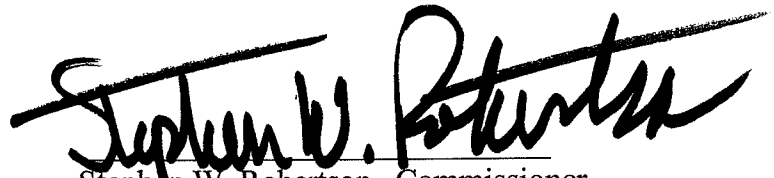
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent shall pay a fine to the Department in the amount of seven hundred fifty dollars (\$750.00), due in full within ninety (90) days.

2. Respondent shall reapply for an insurance producer license upon completion of all pre-licensing requirements, said application may not be denied for any action address in this matter. Respondent's license shall be on a probationary period for two (2) years.

ALL OF WHICH IS ORDERED by the Commissioner this 2nd day of December, 2011.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

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

Michelle O'Reilly
18722 Northridge Dr.
Noblesville, IN 46060

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STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge Debra M. Webb, having considered and reviewed all of the evidence, now renders a decision in the matter of Respondent Michelle O'Reilly ("Respondent"). This matter came to be heard on July 19, 2011, at 10:05 a.m. at the Indiana Department of Insurance, 311 West Washington Street, Suite 103, Indianapolis, Indiana ("Department").

The Department was represented by counsel, Laura Levenhagen. Respondent appeared in person and was not represented by legal counsel. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the testimony and evidence presented at hearing, the Administrative Law Judge now makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. On February 27, 1997 Respondent was issued an Indiana Title Insurance Producer

License. Transcript p. 50 and Exhibit 3.

2. On January 8, 2009 Respondent was sent a Continuing Education Credits Audit Letter from the Indiana Department of Insurance Agency Services Division ("Agency Services") at her home address ("first notice"). Transcript p. 15 and Exhibit 1.
3. The first notice instructed Respondent that she must provide Agency Services with copies of Certificates of Completion for all continuing education classes taken by Respondent in the recent renewal period, and warned that failure to do so could result in, among other things, her license being suspended. Exhibit 1.
4. On January 30, 2009 Respondent was sent another Continuing Education Credits Audit Letter from Agency Services to her home address ("second notice"). Transcript p. 17 and Exhibit 2.
5. The second notice informed Respondent that she had not met the required hours during the recent renewal period. It also contained a list of specific requirements that must be taken to avoid the suspension of her license. Exhibit 2.
6. Respondent did not comply with the requirements contained in the second notice. Transcript pp. 17-18.
7. On February 13, 2009 Respondent's Indiana title producer license was suspended for failure to provide proof of completion of her mandatory continuing education requirements. Transcript p. 51 and Exhibit 3.
8. Both notices were sent to Respondent at 18772 Northridge Drive, Noblesville, Indiana 46060, and Respondent concedes that this has been her accurate address for fourteen (14) years. Transcript pp. 17 and 53.

9. Neither the first notice nor the second notice was returned to Agency Services by the United States Postal Service as undeliverable. Transcript p. 24.
10. On January 25, 2011 a licensing coordinator from Respondent's employer called Agency Services about renewing Respondent's license and stated that she was having problems renewing the license electronically. Exhibit 3.
11. Respondent testified that her manager usually collects CE hours and sends them to the Department when a renewal license is applied for. Transcript p.49.
12. On January 25, 2011 the Agency Services became aware that Respondent might be acting as an unlicensed title producer. Agency Services referred the matter to the Department's Enforcement Division and a case was opened. Transcript p. 21 and Exhibit 3.
13. Upon discovering that Respondent was in violation of Indiana Insurance Law, Department Investigator John Logsdon ("Logsdon") attempted to contact Respondent via phone at a number Respondent acknowledges is her correct phone number, and via mail at the address referenced in paragraph eight (8) above. Transcript pp. 21-22, 25 and 53, and Exhibit 4.
14. None of Logsdon's efforts to contact Respondent were successful. Transcript pp. 24-26.
15. Respondent does not deny that she was acting as an unlicensed title agent from February 13, 2009 through January 25, 2011, and offers as her sole defense that she did so unknowingly. Transcript p. 51.
16. Respondent testified that she is an experienced title agent who has been in "the business a long time", approximately twenty (20) years. Transcript pp. 37 and 41.
17. Respondent testified that she continued going to continuing education classes and

sent verification of such to Investigator Logsdon. Transcript p. 41.

18. Respondent testified that on January 26, 2011 she attended Lobby Day to earn two more hours to complete the continuing education requirements she thought necessary to renew her license which she believed to be up January 31, 2011. Transcript p. 42.

19. Respondent received 3 CE hours for attending Lobby Day. Transcript pp. 38 and 39, and Exhibit B.

20. Respondent's producer license expired January 31, 2011. Transcript pp. 26 and 27 and Exhibit 3.

21. Respondent received a ten (10) hour certificate of completion for a Title Insurance Pre-Licensing Course from the Indiana Land Title Association on February 3, 2011. Exhibit 5, p. 3.

22. On March 23, 2011 Respondent submitted an application to the Department for a new Indiana Title Producer License. Transcript pp. 28, 51, and 54-55 and Exhibit 5.

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. The Department was the moving party, and therefore had the burden of proof.

5. Pursuant to Indiana Code § 27-1-15.6-12(b), “[t]he commissioner may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions...”.

6. The Department has met its burden of proof and shown by a preponderance of evidence that Respondent's failure to comply with the Indiana Code § 27-1-15.7-2 continuing education course requirement is a violation of insurance law.

7. The Department has met its burden of proof and shown by a preponderance of the evidence that Respondent continued to act as a licensed title insurance producer after her license had been suspended. Pursuant to Indiana Code § 27-1-15.6-13(b) it is unlawful for any individual to receive compensation for selling, soliciting, or negotiating insurance in Indiana if the person was required to be licensed under Indiana law and was not.

8. Pursuant to Indiana Code § 27-1-15.6-3(a) it is unlawful for any person to sell, solicit, or negotiate insurance in Indiana for any class or classes of insurance unless the person is licensed for that line of authority under the laws of this state.

9. Pursuant to Indiana Code § 27-1-15.6-12(b)(2)(A) it is unlawful for insurance producers to violate an insurance law.

10. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

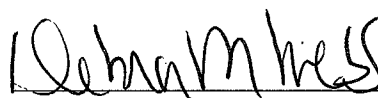
RECOMMENDED ORDER

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 fined seven hundred fifty dollars (\$750.00), payable within ninety (90) days from the date the Commissioner of the Indiana Department of Insurance files his final order in this matter.

2. That Respondent be permitted to reapply for an insurance producer license upon her completion of all pre-licensing requirements, and said application may not be denied for any action addressed in the above captioned matter. However, any new license acquired be held on a probationary period for two (2) years.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 1st day of September, 2011.



Debra M. Webb
Administrative Law Judge

Distribution:

Michelle O'Reilly
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Noblesville, Indiana 46060

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