

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 10496-AG11-0803-100

Kimberly Ann Smallwood,)
)
Respondent)
)
1390 Kristina Court)
Scottsburg, IN 47170)
)
Type of Agency Action: Enforcement)
)
Indiana Insurance License No.: 715159

FILED
OCT 11 2011
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

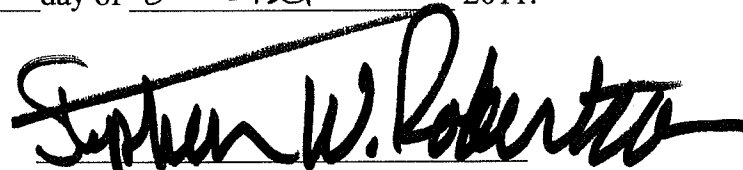
The Indiana Department of Insurance (“Department”) and Kimberly Ann Smallwood, (“Respondent”), signed an Agreed Entry which purports to resolve all issues involved in the action by the Department regarding Respondent’s license, and which has been submitted to the Commissioner of Insurance (the “Commissioner”) for approval.

The Commissioner, after reviewing the Agreed Entry, finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Commissioner hereby incorporates the Agreed Entry as if fully set forth herein, and approves and adopts in full the Agreed Entry as a resolution of this matter.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Commissioner of Insurance:

1. Respondent provided misleading, incomplete, and materially untrue information in a license application.
2. Respondent obtained a license through misrepresentation.
3. Respondent violated an insurance law by not reporting to the Commissioner administrative actions taken against Respondent in other jurisdictions and by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matters.
4. Respondent had insurance producer licenses denied, suspended, and revoked in other states.
5. Respondent's active Indiana resident producer's license, number 715159, is Permanently Revoked.

ALL OF WHICH IS ORDERED this 11th day of October 2011.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Nikolas P. Mann
INDIANA DEPARTMENT OF INSURANCE
311 West Washington Street, Suite 300
Indianapolis, Indiana 46204-2787

Kimberly Ann Smallwood
1390 Kristina Court
Scottsburg, IN 47170

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STATE OF INDIANA
DEPT. OF INSURANCE

Indiana Insurance License No.: 715159

AGREED ENTRY

This Agreed Entry is entered into by Nikolas P. Mann, attorney for and on behalf of the State of Indiana, Department of Insurance (“Department”), and Kimberly Ann Smallwood (“Respondent”), a licensed Indiana resident insurance producer holding license number 715159, to resolve all matters under Cause Number 10496-AG11-0803-100. This Agreed Entry is subject to the review and approval of Stephen W. Robertson, Commissioner, Indiana Department of Insurance.

WHEREAS, Respondent is a licensed resident insurance producer in the State of Indiana; and

WHEREAS, on or about August 30, 2011, Respondent submitted an application for an Indiana Producer License and answered “yes” to the application question: “Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?” Respondent stated only that a nursing license previously held by her was suspended due to non-compliance with the

Indiana State Nurses Assistance Program (“ISNAP”). Respondent omitted from her Indiana Residence Producer License Application Employment History the fact that she had been employed as a Licensed Practical Nurse on or around October 16, 2006 at the Hickory Creek Facility (“Hickory Creek”). Respondent’s Indiana Resident Producer License was approved on August 30, 2010; and

WHEREAS, on November 25, 2008, the Indiana State Board of Nursing filed a Complaint in the Matter of the License of Kimberly Ann Smallwood, L.P.N., Cause Number: 2008 NB 175. Facts of the Cause stated: On or around November 14, 2006, it was discovered that the lock on the emergency drug kit at Hickory Creek had been broken. Four vials of morphine were missing and one vial of Demerol had been broken. Respondent submitted to a urine drug screen and tested positive for morphine, hydromorphone, and hydrocodone. Respondent could not produce any prescriptions for these medications. Respondent was terminated for suspicion of drug diversion. On or around February 23, 2007, Respondent initiated intake with ISNAP. On or around June 13, 2007, Respondent entered into a three (3) year Recovery Monitoring Agreement with ISNAP. On or around January 28, 2008, Respondent was found to be in significant non-compliance with ISNAP in that she was missing addictionist, therapist, and work site monitor reports. Respondent was also missing urine drug screens, self-reports, and meeting logs. On or around May 20, 2008, Respondent’s ISNAP file was closed for significant non-compliance. On or around May 20, 2008, Respondent renewed her Indiana Nursing License online and answered all questions “no”, including question number five (5) which asks, “since you last renewed, have you ever been terminated, reprimanded, disciplined, or demoted in the scope of your practice as a Nurse or as

another health care professional?" On September 1, 2009, Respondent's Indiana nursing License was placed upon Indefinite Suspension for no less than two (2) years; and

WHEREAS, on July 19, 2011, Department Investigator Mike Herndon conducted a Regulatory Action search through the National Association of Insurance Commissioner's I-Site database and discovered that four (4) different states had taken action against Respondent. On October 20, 2010, the State of Wisconsin denied Respondent's request for a Non-Resident Producer License because of other state action. On November 2, 2010, the State of North Carolina suspended Respondent's Non-Resident License stating that Respondent demonstrated lack of fitness or trustworthiness. On December 30, 2010, the State of Colorado denied Respondent's Non-Resident Producer License application, stating that she failed to meet license requirements. On June 8, 2011, the State of Virginia revoked Respondent's Non-Resident Producer License for failure to report other state action and failure to respond; and

WHEREAS, on July 20, 2011, Department Investigator Mike Herndon conducted an Indiana Driver Record search through the Indiana Bureau of Motor Vehicles ("IBMV") and found that Respondent's Driver License was suspended with six (6) points. The IBMV record revealed five (5) citations for Failure to File Insurance, three (3) Failures to Pay, five (5) Failures to Appear, two (2) Repeat Insurance Violations, and Driving While Suspended; and

WHEREAS, the Department and Respondent desire to resolve their differences and settle the issues without a hearing;

IT IS, THEREFORE, NOW AGREED by and between the parties as follows:

1. The Commissioner has jurisdiction over the subject matter and the respondent in this administrative action.
2. This Agreed Entry is executed voluntarily by the parties.
3. Respondent voluntarily and freely waives her right to a public hearing on the issues in this action.
4. Respondent provided misleading, incomplete, and materially untrue information in a license application.
5. Respondent obtained a license through misrepresentation.
6. Respondent violated an insurance law by not reporting to the Commissioner administrative actions taken against Respondent in other jurisdictions and by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matters.
7. Respondent had insurance producer licenses denied, suspended, and revoked in other states.
8. Respondent agrees to the permanent revocation of her Indiana resident insurance producer license number 715159.
9. The Department agrees to accept Respondent's compliance with the terms of this Agreed Entry as full resolution of this matter.
10. Should this Agreed Entry not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Entry by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation in or resolution of these

proceedings.

- 11. Respondent has carefully read this agreement and fully understands and accepts its terms.

9/29/11 9/30/11
 Date Signed

Nikolas P. Mann
 Nikolas P. Mann, Attorney
 Indiana Department of Insurance

9/29/11
 Date Signed

Kimberly A. Smallwood
 Kimberly Ann Smallwood, Respondent

STATE OF INDIANA)
) SS:
 COUNTY OF Scott)

Before me a Notary Public for Scott County, State of Indiana, personally appeared Kimberly Ann Smallwood and being first duly sworn by me upon her oath, states that the facts alleged in the foregoing instrument are true. Signed and sealed this 29 day of ~~August~~ ^{September} 2011.

Linda F. Wilson
 Notary Signature

Linda F. Wilson
 Notary Name Printed

My Commission expires: 7/27/2019

County of Residence: Scott

INDIANA DEPARTMENT OF INSURANCE
311 West Washington Street, Suite 103
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317/234-5888 - telephone
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