

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO. 11535-AG12-0905-099

IN THE MATTER OF:)
)
Jessica Jepsen)
1259 Sherwood Dr.)
Valparaiso, IN 46385)
Respondent.)
Type of Agency Action: Enforcement)
Insurance License No. 502819)

FILED
JUN 06 2013
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On April 10, 2013, 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. Neither party has 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 producer license should be 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 6th day of June, 2013.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Michael F. Mullen
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

Jessica Jepsen
1259 Sherwood Drive
Valparaiso, IN 46385

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STATE OF INDIANA
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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 Department of Insurance, within eighteen (18) days from the date stamped on this Order.



Holly Williams
Administrative Law Judge

Distribution:
Michael F. Mullen
INDIANA DEPARTMENT OF INSURANCE
311 W. Washington Street, Suite 103
Indianapolis, Indiana 46204

Jessica Jepsen
1259 Sherwood Drive
Valparaiso, IN 46385

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DEPT. OF INSURANCE

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

Administrative Law Judge, Holly Williams, having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Jessica Jepsen (“Respondent”), which came to be heard on January 10, 2013, at approximately 10:15 a.m. at the Indiana Department of Insurance, 311 West Washington St., Indianapolis, Indiana 46204.

The Indiana Department of Insurance (“Department”) was represented by counsel, Michael F. Mullen. Respondent was present and was not 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 her Recommended Order as follows:

FINDINGS OF FACT

1. Jessica Jepsen (“Respondent”) is a licensed resident insurance producer, holding license number 502819. *Exhibit 1.*

2. On September 17, 2012, the Department received a letter from American Family Life Assurance Company of Columbus (“Aflac”) that Respondent’s agreement and appointment to represent Aflac were terminated for cause effective August 28, 2012, and Respondent is “not eligible for rehire.” *Exhibit 1.*

3. Respondent testified that she reached out to the Department once she learned of her termination from Aflac. *Transcript p. 10.*

4. Respondent testified that Aflac represented to her that “depending on what happened with the state, I can ask to be rehired after a year.” *Transcript p. 12:12-14.*

5. The letter stated Aflac’s Special Investigations Unit conducted an investigation of Respondent’s insurance practices. The Special Investigations Unit determined that Respondent “submitted bogus business, and is guilty of contest manipulation.” *Exhibit 1.*

6. The Department received a copy of the Aflac Report of Investigation (“Aflac Report”), Case Number: CP11-0557. *Exhibit 2; Transcript p. 11.*

7. The Aflac Report includes a Basis for Investigation, Summary of Investigation, and Details of Investigation commenced against Respondent. *Exhibit 2.*

8. The Aflac Report states that, from July 1, 2011, through April 28, 2012, “[Respondent] submitted 17 applications on 9 individuals found to be fictitious.” *Exhibit 2 at p. 2; Transcript p. 14.*

9. According to the Aflac Report, in a recorded interview the Respondent acknowledged that she wrote policies to fictitious persons in order to meet the goals necessary to qualify for contests, specifically the 2011 National Convention trip to Hawaii. The Respondent was awarded a trip to Hawaii for herself and her husband valued at \$8,261.83. *Exhibit 2.*

10. The Aflac Report also indicates that, as a result of submitting said applications, Respondent “was provided a watch as a gift that was valued at less than \$150;” however, Respondent stated both during the Department’s investigation and at the January 10, 2013, evidentiary hearing, that she did not receive a watch as a gift. *Exhibit 2; Transcript p. 17.*

11. The Aflac Report concluded that all but three (3) of the seventeen (17) policies deferred commission, for a total commission received of nine hundred sixteen dollars and 00/100 (\$916.00). Respondent testified that her “intent was to write applications and manipulate a contest and not receive commissions on any of these policies.” Respondent further testified that the received commission was likely the result of an administrative error and that she has since paid back any commissions owed. *Exhibit 2; Transcript pgs. 26:3-6, 46:2-3.*

12. Respondent has not challenged the validity of the report or the overall allegations of submitting the bogus business to Aflac; however, Respondent has called minor details of Aflac’s report into question, such as the amount of commissions received. *Transcript pgs. 16-17.*

13. At the January 13, 2013, evidentiary hearing, Respondent admitted six (6) letters of reference into evidence. *Exhibit A.*

14. Respondent testified that none of the reference letter authors were aware, either at the time said letters were dated or presently, of the reason for her termination. *Transcript pgs. 34-35.*

15. Respondent submitted e-mail communications from potential employers, expressing an interest in her experience and services. None of these potential employers discuss Respondent’s termination. One individual referred Respondent’s termination as a decision for an

“early retirement”. Respondent testified that she did not correct this characterization. *Exhibits B and D; Transcript pgs. 38, 47-48.*

16. Respondent provided communications between herself and her peers to demonstrate her involvement within her community as well as her participation in organizing fundraising events. The authors of these communications are also unaware of her termination from Aflac and the surrounding circumstances. *Exhibit C; Transcript p. 41.*

17. Respondent stated testified that she would prefer not to tell potential employers she was terminated from Aflac. *Transcript pgs. 47-48.*

18. Respondent testified to being afraid of the repercussions of her actions pertaining to future employment matters. Respondent stated that she would like a fresh start with an untarnished record. *Transcript pgs. 31, 32.*

19. Respondent stated that since her termination, her family has struggled financially. *Transcript pgs. 30, 43, 46.*

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

CONCLUSIONS OF LAW

21. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.

22. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, codified at Ind. Code § 4-21.5 et seq. All procedures and rules set forth by such Act have been followed in this matter.

23. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.

24. Indiana Code Section 27-1-15.6-12(b)(8) prohibits an insurance producer from using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

25. The Department has met its burden of proof by showing, by a preponderance of the evidence, that Respondent acted in a manner contrary to Indiana Code Section 27-1-15.6-12(b)(8) by having submitted seventeen (17) policy applications for nine (9) fictitious individuals, from July 1, 2011, until April 28, 2012, and having accepted an awarded trip to Hawaii in connection with those applications.

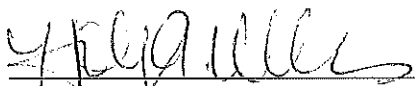
26. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

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:

27. Respondent's producer license should be permanently revoked.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 10th day of April, 2013.


Holly Williams
Administrative Law Judge

Distribution:

Michael F. Mullen
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

Jessica Jepsen
1259 Sherwood Drive
Valparaiso, IN 46385