

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 11881-AG13-0125-005

IN THE MATTER OF: )  
 )  
RICHARD ALLEN CARTUYVELLES )  
4912 Clover Pine Dr. )  
Greenville, IN 47124 )  
 )  
Resident Producer License #: 832959 )  
 )  
Type of Agency Action: Enforcement )  
 )  
Respondent. )

FILED

OCT 04 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On August 6, 2013, the Administrative Law Judge, 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 Recommended Order on Respondent by mailing to his 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 license be permanently revoked, effectively immediately.

ALL OF WHICH IS ORDERED by the Commissioner this 14<sup>th</sup> day of ~~September~~ October,  
2013.



Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

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

Richard Allen Cartuyvelles  
4912 Clover Pine Drive  
Greenville, Indiana 47124

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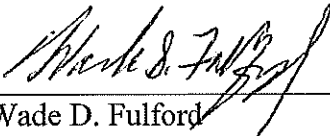
AUG 06 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

**NOTICE OF FILING OF RECOMMENDED ORDER**

The parties of 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 ultimate authority for the Final Order, the Commissioner of the Department of Insurance within eighteen (18) days from the date of this Order.

  
\_\_\_\_\_  
Wade D. Fulford  
Administrative Law Judge

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

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Type of Agency Action: Enforcement )  
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Respondent. )

**FILED**

AUG 06 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

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

Administrative Law Judge Wade D. Fulford (“ALJ Fulford”), having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent, Richard Allen Cartuyvelles (“Respondent”) under Cause No. 11881-AG13-0125-005. This matter came to be heard on June 4, 2013, at 10:10 A.M. before ALJ Fulford at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Indiana Department of Insurance (“Department”) was represented at the hearing by counsel, Michael F. Mullen. Respondent, Richard Allen Cartuyvelles failed to appear in person or by counsel. Service of process for the hearing was confirmed. At the hearing, a witness for the Department testified under oath, evidence was heard, and exhibits were received into evidence.

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

## FINDINGS OF FACT

1. Respondent, a resident insurance producer, has held insurance producer license number 832959 since August 13, 2012 (“Respondent’s license”). (Exhibit B at p. 1).
2. Respondent’s license is scheduled to expire on January 31, 2015. (Ex. B at p. 1).
3. On May 6, 2013, Respondent received notice of the date, time and issues to be heard at the evidentiary hearing in this matter via U.S.P.S. Certified Mail Number 9214 8901 0661 5400 0013 9012 46. (Exhibit A; Exhibit B at p. 1; Notice of Hearing).
4. Ronda Ankney, an investigator for the Department, testified at the hearing. (June 4, 2013 Evidentiary Hearing Transcript at pp. 10—11).
5. Mrs. Ankney testified that the Washington Department of Insurance contacted her, via telephone, to discuss a felony conviction Respondent disclosed on a nonresident application. (Tr. at p. 24).
6. Mrs. Ankney testified that the phone call with the Washington Department of Insurance prompted her investigation of Respondent’s criminal history. (Tr. at p. 24).
7. On August 11, 2012, the Department received Respondent’s application for licensure. (Exhibit B at p. 2).
8. Said application asks, among other things, whether the applicant has “ever been convicted<sup>1</sup> of a crime, [or] had a judgment withheld or deferred.” (Exhibit D at pp. 4—5).
9. Respondent answered that question “No.” (Exhibit D at p. 5).
10. In fact, Respondent has been convicted of a crime. (Exhibit E).

---

<sup>1</sup> The application defines “convicted” as “having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.” (Exhibit D at p. 5).

11. On October 15, 2007, Respondent entered a plea of guilty and a conviction was entered for Possession of a Controlled Substance, a Class D Felony, in the Floyd Superior Court under cause number 22D01-0703-FD-00190. (Exhibit E at p. 2).
12. For said conviction, Respondent was sentenced to serve one and a half (1 ½) years in the Floyd County Jail, with one and a half (1 ½) years suspended. (Exhibit E at p. 2). Respondent was also ordered to complete one and a half (1 ½) years of supervised probation, subject to certain terms and conditions. (Exhibit E at pp. 2—3).
13. Had Respondent successfully completed the terms and conditions of his probation, he would have maintained the right to file a request to modify his conviction, potentially reducing it to an A Misdemeanor. (Exhibit E at p. 3).
14. On December 30, 2008, the Floyd Superior Court filed a Modified Judgment of Conviction under cause number 22D01-0703-FD-00190 (“First Modified Judgment of Conviction”). (Exhibit E at p. 4).
15. The First Modified Judgment of Conviction provides that Respondent stipulated to a probation violation. (Exhibit E at p. 4). Respondent was sentenced to one and a half (1 ½) years in Floyd County Jail; four (4) months to be served, one (1) year and two (2) months to be suspended. (Exhibit E at p. 4). Respondent was also ordered to complete one (1) year and (2) two months of supervised probation, subject to certain terms and conditions. (Exhibit E at pp. 4—5).
16. Again, as of December 30, 2008, had Respondent successfully completed the terms and conditions of his probation, he would have maintained the right to request a modification of his sentence to reduce his conviction to an A Misdemeanor. (Exhibit E at p. 5).

17. On July 24, 2009, the Floyd Superior Court filed a Modified Judgment of Conviction under cause number 22D01-0703-FD-00190 (“Second Modified Judgment of Conviction”). (Exhibit E at p. 6).
18. The Second Modified Judgment of Conviction provides that Respondent stipulated to a probation violation. (Exhibit E at p. 6). Respondent was sentenced to one and a half (1 ½) years in Floyd County Jail; one (1) year and four (4) months to be served, with two (2) months suspended. (Exhibit E at p. 6).
19. The Second Modified Judgment of Conviction provides that Respondent’s probation was terminated. (Exhibit E at p. 6).
20. Additionally, the Second Modified Judgment of Conviction revoked Respondent’s right to file a modification of his sentence. (Exhibit E at pp. 6—7).
21. Mrs. Ankney testified that she has worked for the Department for approximately twenty five (25) years. (Tr. at p. 11).
22. Mrs. Ankney, testified that, in her opinion, Respondent would not have been granted a license if he disclosed the abovementioned felony conviction on his application. (Tr. at pp. 22—23).
23. On February 4, 2013, Mrs. Ankney authored and mailed a letter to Respondent. (Exhibit C). In that letter, Mrs. Ankney offers Respondent “the opportunity to resolve this matter without the necessity of an administrative hearing.” (Exhibit C).
24. Mrs. Ankney testified that Respondent did not discuss the resolution of this matter with her. (Tr. at p 13 and p. 16).

#### **CONCLUSIONS OF LAW**

25. The Commissioner has jurisdiction over both the subject matter and the parties to this action.

26. The hearing was held in compliance with the Indiana Administrative Orders and Procedures Act, codified at Ind. Code § 4-21.5 *et seq.*.
27. The Department complied with those service of process requirements set forth in with Ind. Code § 4-21.5-3-1.
28. Pursuant to Ind. Code § 27-1-15.6-12(b)(6), the 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, for having been convicted of a felony.
29. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent was convicted of a felony and, thus, is subject to disciplinary action. Specifically, Respondent was convicted of Possession of a Controlled Substance, a Class D Felony, in the Floyd Superior Court under cause number 22D01-0703-FD-00190.
30. Pursuant to Ind. Code § 27-1-15.6-12(b)(1), the 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, for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
31. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent provided incorrect information in a license application and, thus is subject to disciplinary action. Specifically, Respondent failed to disclose on his application a conviction of Possession of a Controlled Substance, a Class D Felony, in the Floyd Superior Court under



cause number 22D01-0703-FD-00190.

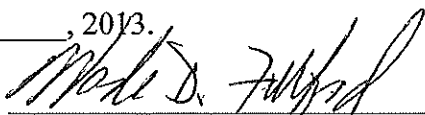
32. Pursuant to Ind. Code § 27-1-15.6-12(b)(3), the Commissioner may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for obtaining or attempting to obtain a license through misrepresentation or fraud.
33. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent obtained a license through misrepresentation and, thus, is subject to disciplinary action. Specifically, Respondent was granted a resident producer license based, in part, on the misrepresentation that he had not been convicted of Possession of a Controlled Substance, a Class D Felony, in Floyd Superior Court under cause number 22D01-0703-FD-00190.
34. 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, Administrative Law Judge Wade D. Fulford now recommends to the Commissioner the following:

1. Respondent's license be permanently revoked, effectively immediately.

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the Commissioner this 5<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Wade D. Fulford  
Administrative Law Judge

Distribution:

Richard Allen Cartuyvelles  
4912 Clover Pine Drive  
Greenville, Indiana 47124

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

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
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CAUSE NUMBER: 11881-AG13-0125-005

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4912 Clover Pine Dr. )  
Greenville, IN 47124 )  
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Resident Producer License #: 832959 )  
 )  
Type of Agency Action: Enforcement )  
 )  
Respondent. )

**FILED**

JUN 27 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

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

The Enforcement Division of the Indiana Department of Insurance (the "Department"), by counsel, Michael F. Mullen, having participated in the matter of Respondent Richard Allen Cartuyvelles ("Respondent"), which came to be heard on June 4, 2013, at approximately 10:10 A.M., at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana 46202, now submits Proposed Findings of Fact, Conclusions of Law and Recommended Order, pursuant to Ind. Code Ind. Code § 4-21.5-3-17, as follows:

**FINDINGS OF FACT**

1. Respondent, a resident insurance producer, has held insurance producer license number 832959 since August 13, 2012 ("Respondent's license"). (Exhibit B at p. 1).
2. Respondent's license is scheduled to expire on January 31, 2015. (Ex. B at p. 1).
3. On May 6, 2013, Respondent received notice of the date, time and issues to be heard at the evidentiary hearing in this matter via U.S.P.S. Certified Mail Number 9214 8901 0661 5400 0013 9012 46. (Exhibit A; Exhibit B at p. 1; Notice of Hearing).

4. Ronda Ankney, an investigator for the Department, testified at the hearing. (June 4, 2013 Evidentiary Hearing Transcript at pp. 10—11).
5. Mrs. Ankney testified that the Washington Department of Insurance contacted her, via telephone, to discuss a felony conviction Respondent disclosed on a nonresident application. (Tr. at p. 24).
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7. On August 11, 2012, the Department received Respondent's application for licensure. (Exhibit B at p. 2).
8. Said application asks, among other things, whether the applicant has "ever been convicted<sup>1</sup> of a crime, [or] had a judgment withheld or deferred." (Exhibit D at pp. 4—5).
9. Respondent answered that question "No." (Exhibit D at p. 5).
10. In fact, Respondent has been convicted of a crime. (Exhibit E).
11. On October 15, 2007, Respondent entered a plea of guilty and a conviction was entered for Possession of a Controlled Substance, a Class D Felony, in the Floyd Superior Court under cause number 22D01-0703-FD-00190. (Exhibit E at p. 2).
12. For said conviction, Respondent was sentenced to serve one and a half (1 ½) years in the Floyd County Jail, with one and a half (1 ½) years suspended. (Exhibit E at p. 2). Respondent was also ordered to complete one and a half (1 ½) years of supervised probation, subject to certain terms and conditions. (Exhibit E at pp. 2—3).

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13. Had Respondent successfully completed the terms and conditions of his probation, he would have maintained the right to file a request to modify his conviction, potentially reducing it to an A Misdemeanor. (Exhibit E at p. 3).
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23. On February 4, 2013, Mrs. Ankney authored and mailed a letter to Respondent. (Exhibit C). In that letter, Mrs. Ankney offers Respondent "the opportunity to resolve this matter without the necessity of an administrative hearing." (Exhibit C).
24. Mrs. Ankney testified that Respondent did not discuss the resolution of this matter with her. (Tr. at p 13 and p. 16).

#### **CONCLUSIONS OF LAW**

25. The Commissioner has jurisdiction over both the subject matter and the parties to this action.
26. The hearing was held in compliance with the Indiana Administrative Orders and Procedures Act, codified at Ind. Code § 4-21.5 *et seq.*.
27. The Department complied with those service of process requirements set forth in with Ind. Code § 4-21.5-3-1.
28. Pursuant to Ind. Code § 27-1-15.6-12(b)(6), the 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, for having been convicted of a felony.

29. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent was convicted of a felony and, thus, is subject to disciplinary action. Specifically, Respondent was convicted of Possession of a Controlled Substance, a Class D Felony, in the Floyd Superior Court under cause number 22D01-0703-FD-00190.

30. Pursuant to Ind. Code § 27-1-15.6-12(b)(1), the 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, for providing incorrect, misleading, incomplete, or materially untrue information in a license application.

31. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent provided incorrect information in a license application and, thus is subject to disciplinary action. Specifically, Respondent failed to disclose on his application a conviction of Possession of a Controlled Substance, a Class D Felony, in the Floyd Superior Court under cause number 22D01-0703-FD-00190.

32. Pursuant to Ind. Code § 27-1-15.6-12(b)(3), the 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, for obtaining or attempting to obtain a license through misrepresentation or fraud.

33. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent obtained a license through misrepresentation and, thus, is subject to disciplinary action. Specifically, Respondent was granted a resident producer license based, in part, on the misrepresentation that he had not been convicted of Possession of a Controlled Substance, a Class D Felony, in Floyd Superior Court under cause number 22D01-0703-FD-00190.
34. Ind. Code § 27-1-15.6-12(f) states, in pertinent part, that in addition to or in lieu of any applicable revocation of a license, a person may, after a hearing, be subject to the imposition by the Commissioner of a civil penalty of not less than Fifty Dollars and 00/100 and not more than Ten Thousand Dollars and 00/100 (\$10,000.00).
35. 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, Administrative Law Judge Wade D. Fulford now recommends to the Commissioner the following:

1. Respondent's license be permanently revoked; and
2. Respondent be required to be pay a fine in the amount of Two Hundred Fifty Dollars and 00/100 (\$250.00) per violation, for a total fine of Seven Hundred Fifty Dollars and 00/100 (\$750.00) within ninety (90) days of the Final Order.

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_

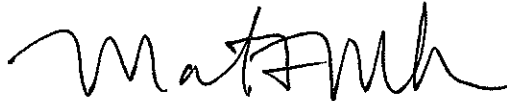
\_\_\_\_\_  
Wade D. Fulford  
Administrative Law Judge



**CERTIFICATE OF SERVICE**

This is to certify that a copy of the Proposed Findings of Fact, Conclusions of Law and Recommended Order has been served upon Respondent in the above-captioned proceeding by depositing a copy of same in the United States Mail to the addresses below, First Class Postage prepaid, this 27<sup>th</sup> day of June 2013.

Richard Allen Cartuyvelles  
4912 Clover Pine Drive  
Greenville, IN 47124



---

Michael F. Mullen  
Attorney No. 30395-49

Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street, Suite 103  
Indianapolis, IN 46204-2787  
317/232-2422 - telephone  
317/232-5251 – facsimile

STATE OF INDIANA )  
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BEFORE THE INDIANA  
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Resident Producer License #: 832959 )  
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Type of Agency Action: Enforcement )  
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Respondent. )

**FILED**

MAY 01 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

**STATEMENT OF CHARGES**

The Enforcement Division of the Indiana Department of Insurance (the "Department"), by counsel, Michael F. Mullen, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.*, files its Statement of Charges against Respondent Richard Allen Cartuyvelles ("Respondent"), as follows:

**FACTS**

1. Respondent is a licensed resident producer holding license number 832959, with qualifications for Accident & Health ("Respondent's license").
2. On or about September 20, 2007, Respondent entered a plea of guilty to a charge of Possession of a Controlled Substance, a Class D Felony, under cause number 22D01-0703-FD-00190 in Floyd County Superior Court I, New Albany, Indiana.
3. On or about August 11, 2012, Respondent submitted a resident producer license application to the Department.

4. On said application, Respondent stated that he had never been convicted of a crime. Said application defines “convicted” to include “having entered a plea of guilty.”
5. Based on the information provided, Respondent’s application was approved and his license was issued on or about August 13, 2012.
6. Respondent’s license will expire on January 31, 2015.

**COUNT I**

7. Averments 1 through 6 are incorporated fully herein by reference.
8. Respondent has been convicted of a felony, in violation of Indiana Code § 27-1-15.6-12(b)(6). Specifically, Respondent was convicted of a Class D Felony on September 20, 2007.

**COUNT II**

9. Averments 1 through 8 are incorporated fully herein by reference.
10. Respondent provided incorrect, misleading, incomplete, or materially untrue information in a license application, in violation of Indiana Code § 27-1-15.6-12(b)(1). Specifically, Respondent stated he had not been convicted of a crime.

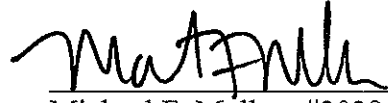
**COUNT III**

11. Averments 1 through 10 are incorporated fully herein by reference.
12. Respondent obtained a license through misrepresentation or fraud, in violation of Indiana Code § 27-1-15.6-12(b)(3). Specifically, Respondent would not have received a license had he disclosed his felony conviction.

**WHEREFORE**, the Enforcement Division of the Indiana Department of Insurance, by counsel, Michael F. Mullen, requests that the Commissioner set this matter for a hearing, and/or issue an order permanently revoking Respondent’s license, impose a fine in the amount of Ten

Thousand Dollars and 00/100 dollars (\$10,000.00), and for all all other necessary and appropriate relief.

Respectfully submitted,



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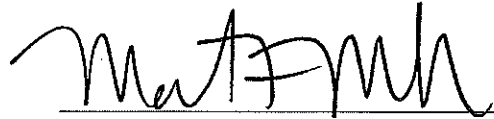
Michael F. Mullen, #30395-49  
Attorney, Enforcement Division

Michael F. Mullen, Esq.  
Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204-2787  
Telephone: (317) 232-2422  
Facsimile: (317) 232-5251

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served upon the following Respondent by  
United States first class mail, postage prepaid, this 1<sup>st</sup> day of MAY, 2013.

Richard Allen Cartuyvelles  
4912 Clover Pine Dr.  
Greenville, IN 47124

A handwritten signature in black ink, appearing to read "Michael F. Mullen", written over a horizontal line.

Michael F. Mullen