

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO: 12209-AG13-1003-117

IN THE MATTER OF: )

RICHARD DICKERSON )  
5910 Shallow Water Lane )  
Bargersville, Indiana 46106-8516 )

License No.: 586240 )

Respondent. )

**FILED**

APR 25 2014

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On February 27, 2014, 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 the same to his 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.

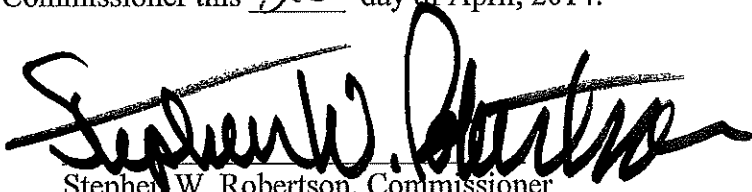
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's license is permanently revoked.
2. Respondent is to pay Assurant restitution in the amount of Thirteen Thousand Dollars Six Hundred Fourteen Dollars and 47/100 (\$13,614.47) due within ninety (90) days.
3. Respondent is to pay a civil penalty of Two Hundred Fifty Dollars and no/100 (\$250.00) per violation, for a total civil penalty of One Thousand Dollars and no/100 (\$1,000.00) due within ninety (90) days.

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 25<sup>th</sup> day of April, 2014.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Richard O. Dickerson  
5910 Shallow Water Lane  
Bargersville, Indiana 46106-8516

Michael F. Mullen  
Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street, Suite 103  
Indianapolis, IN 46204-2787

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO: 12209-AG13-1003-117

IN THE MATTER OF:

RICHARD DICKERSON  
1549 Bauxite Lane, Apt 13  
Greenwood, IN 46143-6076

License No.: 586240

Respondent.

**FILED**

NOV 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 Dickerson ("Respondent"), as follows:

**FACTS**

1. Respondent, a resident producer, has held license number 586240 since March 10, 2008 ("Respondent's license"). Respondent's license is scheduled to expire March 31, 2014.

**Termination for Cause**

2. On March 25, 2013, Respondent's appointments with Time Insurance Company ("TIC") and its affiliates were terminated for cause.
3. After conducting an investigation, TIC determined that, from about October 2012 through January 2013, Respondent submitted policy applications listing one of two (2) bank accounts for eighteen (18) individuals.
4. Respondent submitted a total of sixty eight (68) applications identifying one of the two

above-referenced bank accounts.

5. After an initial premium payment was withdrawn from one of the two above-referenced bank accounts, each policy lapsed for nonpayment.
6. Prior to each policy lapse, Respondent received unearned commissions and unpaid appointment fees in connection with the above-referenced policies in the amount of Thirteen Thousand Six Hundred Fourteen Dollars and 47/100 (\$13,614.47).
7. As of October 22, 2013, Respondent had failed to remit any of said unearned commissions and unpaid appointment fees to TIC, or its affiliates.

#### West Virginia Revocation

8. On September 11, 2013, the Insurance Commissioner of the State of West Virginia issued a Final Order revoking Respondent's nonresident producer license.
9. As of this date, Respondent has not reported said revocation to the Department.

#### Change of Address

10. Respondent has provided the Department the following address: 7508 Norma Jean Drive, Indianapolis, IN 46259.
11. Based on information and belief, Respondent has resided at the following address for more than thirty (30) days: 1549 Bauxite Lane, Apt. 13, Greenwood, Indiana 46143.
12. Respondent has failed to respond to the Department's multiple attempts to contact him.

#### COUNT I

13. Averments 1 through 12 are incorporated fully herein by reference.
14. Respondent improperly withheld, misappropriated, or converted monies or properties received in the course of doing insurance business. Specifically, Respondent failed to remit

unearned premiums or unpaid appointment fees to TIC, or its affiliates, in the amount of Thirteen Thousand Six Hundred Fourteen Dollars and 47/100 (\$13,614.47).

15. Respondent's conduct, as alleged herein, is cause for disciplinary action in accordance with Ind. Code § 27-1-15.6-12(b)(4).

### **COUNT II**

16. Averments 1 through 15 are incorporated fully herein by reference.

17. Respondent used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere. Specifically, Respondent submitted sixty eight (68) policy applications with identical banking information for eighteen (18) individuals; collected unearned premiums prior to said policies' lapses; and failed to remit said unearned premiums to TIC.

18. Respondent's conduct, as alleged herein, is cause for disciplinary action in accordance with Ind. Code § 27-1-15.6-12(b)(8).

### **COUNT III**

19. Averments 1 through 18 are incorporated fully herein by reference.

20. Respondent's insurance producer license, or its equivalent, was revoked in the State of West Virginia.

21. Respondent's conduct, as alleged herein, is cause for disciplinary action in accordance with Ind. Code § 27-1-15.6-12(b)(9).

### **COUNT IV**

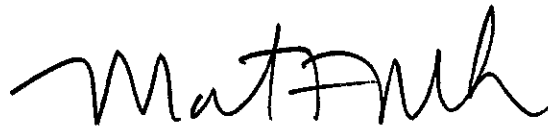
22. Averments 1 through 21 are incorporated fully herein by reference.

23. Respondent failed to inform the Commissioner of a change of address (30) days after the change.

24. Respondent's conduct, as alleged herein, is a violation of Ind. Code § 27-1-15.6-7(h) and cause for disciplinary action in accordance with Ind. Code § 27-1-15.6-12(b)(2)(A).

**WHEREFORE**, the Enforcement Division of the Indiana Department of Insurance, by counsel, Michael F. Mullen, requests the Commissioner set this matter for hearing, and/or issue an order permanently revoking Respondent's license; issue an order imposing Respondent pay restitution to Time Insurance Company, or its affiliates, in the amount of Thirteen Thousand Six Hundred Fourteen Dollars and 47/100 (\$13,614.47); issue an order requiring Respondent pay a civil penalty in the amount of One Thousand Dollars No/100 (\$1,000.00); and for all other just and proper relief.

Respectfully submitted,

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

Michael Mullen, #30395-49  
Attorney, Enforcement Division

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 Statement of Charges has been served upon the following Respondent by United States first class mail, postage prepaid, this 29<sup>th</sup> day of October, 2013:

Richard Dickerson  
1549 Bauxite Lane, Apt. 13  
Greenwood, IN 46143

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

Michael F. Mullen



STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO: 12209-AG13-1003-117

IN THE MATTER OF: )

RICHARD DICKERSON )  
5910 Shallow Water Lane )  
Bargersville, Indiana 46106-8516 )

License No.: 586240 )

Respondent. )

**FILED**

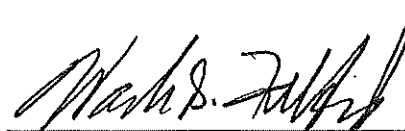
FEB 27 2014

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

CAUSE NO: 12209-AG13-1003-117

IN THE MATTER OF:

RICHARD DICKERSON  
5910 Shallow Water Lane  
Bargersville, Indiana 46106-8516

License No.: 586240

Respondent.

**FILED**

FEB 27 2014

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 Dickerson ("Respondent") under Cause No. 12209-AG13-1003-117. This matter came to be heard on December 5, 2013, before ALJ Fulford at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, 46202.

The Indiana Department of Insurance ("Department") was represented at the hearing by counsel, Michael F. Mullen. Respondent, Richard Dickerson, 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, 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 586240 since March 10, 2008 ("Respondent's license"). (Exhibit 1 at p. 1).
2. Respondent's license is scheduled to expire on March 31, 2014. (Ex. 1 at p. 1).

## **Procedural Facts**

3. Kim Green, an investigator for the Department, testified at the hearing. (December 5, 2013 Evidentiary Hearing Transcript at p. 11).
4. Mrs. Green testified that she was assigned to investigate Respondent's conduct after learning he had been terminated from his employer. (Tr. at pp. 11-12).
5. Mrs. Green testified that Indiana insurance producers provide contact information to the Department through the SIRCON database ("SIRCON"). (Tr. at p. 12). Mrs. Green further testified that a change in the contact information listed in SIRCON would come by way of Respondent's update. (Tr. at p. 14). Mrs. Green further testified that she uses SIRCON daily. (Tr. at p. 13).
6. According to SIRCON, Respondent has listed the following contact information:
  - a. A residential mailing address of 7508 Norma Jean Drive, Indianapolis, Indiana 46259 (the "Indianapolis Address"). (Ex. 1 at p. 1).
  - b. A business mailing address of 101 West Ohio Street, Suite 2000, Indianapolis, Indiana 46204 (the "Business Address"). (Ex. 1 at p. 1).
7. Mrs. Green testified that these addresses were provided by Respondent. (Tr. at p. 14).
8. Mrs. Green testified that, on May 28, 2013, she sent, via certified mail, a letter inquiring into Respondent's termination to the Norma Jean, Indianapolis Address. (Tr. at p. 15; Ex. 2).

9. This letter was returned to the Department with a notification that Respondent's mail was to be forwarded to 1549 Bauxtie Lane, Apartment 13, Greenwood, Indiana 46143-6026 (the "Greenwood Address"). (Ex. 2 at p. 5).
10. Mrs. Green testified that, on June 3, 2013, she sent, via certified mail, another letter inquiring into Respondent's termination to the Greenwood Address. (Tr. at pp. 18—19; Ex. 3).
11. The tracking information for this letter states that notice was left for Respondent, at the Greenwood Address, on June 6, 2013. (Ex. 3 at p. 2). On June 25, 2013, the tracking information for this letter was changed to "Unclaimed." (Ex. 3 at p. 2).
12. Mrs. Green testified that she utilizes this tracking information system daily. (Tr. at p. 19). Mrs. Green further testified that she interprets the abovementioned tracking information to mean "[Respondent] did not go to the post office and claim the letter" and that there was nothing to indicate the Greenwood Address was stale or incorrect. (Tr. at p. 19).
13. Mrs. Green testified that she sent a letter, via standard mail, to the Greenwood Address. (Tr. at p. 20). Said letter was returned to the Department with notification that Respondent's mail was to be forwarded to 5910 Shallow Water Lane, Bargersville, Indiana 46106-8518 (the "Bargersville Address"). (Ex. 4).
14. Mrs. Green testified that, on November 19, 2013, she sent, via certified mail, copies of the Statement of Charges and Notice of Hearing in this matter to the Bargersville Address. (Tr. at pp. 22—23; Ex. 5).
15. Copies of the Statement of Charges and Notice of Hearing were left at the Bargersville Address on November 21, 2013. (Ex. 5).

16. Mrs. Green testified that, as of the date of the hearing, she had not received any return envelopes delivered to the Bargersville Address. (Tr. at p. 23). Mrs. Green further testified that she has no reason to believe the Bargersville Address is stale or incorrect. (Tr. at p. 23).
17. Mrs. Green testified that, in addition to mailing copies of the Statement of Charges and Notice of Hearing to the Bargersville Address, she mailed copies to the Business Address via certified mail, on November 12, 2013. (Tr. at p. 24—25).
18. The tracking information for this delivery states that, as of November 15, 2013, the status of this delivery was “Undeliverable As Addressed.” (Ex. 6 at p. 1). Mrs. Green testified that she interprets this to mean Respondent “no longer has an office located at that address.” (Tr. at p. 25).
19. Mrs. Green testified that she has been monitoring Respondent’s contact information, through SIRCON, since March 2013. (Tr. at p. 14). Mrs. Green further testified Respondent did not update his contact information from March 2013 through the date of the hearing. (Tr. at p. 14).

### **Termination For Cause**

20. On March 28, 2013, the Licensing Division of the Indiana Department of Insurance received a copy of a March 25, 2013 letter notifying Respondent that his “General Agent Sales Agreement...and appointments with Time Insurance Company<sup>1</sup> [were] terminated for cause” (the “Termination for Cause Letter”). (Ex. 7 at pp. 1—2).
21. The Termination for Cause Letter states Respondent’s termination was the result of a breach of his General Agent Sales Agreement. (Ex. 7 at p. 2). Specifically, the Termination for

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<sup>1</sup> Assurant Health is the brand name for products underwritten and issued by Time Insurance Company, Union Security Insurance Company, and John Alden Life Insurance Company. (Ex. 7 at p. 2). Thus, Time Insurance Company and “Assurant” are used interchangeably, throughout this filing.

Cause Letter states Respondent used “fraudulent, coercive or dishonest practices in the conduct of business including misrepresentations related to the terms of an insurance contract and application for insurance.” (Ex. 7 at p. 2).

22. Notably, the Termination for Cause Letter identifies the same resident address and business address as those listed on the SIRCON database. (Ex. 7 at p. 1 and Ex. 1 at p. 1)

23. Mrs. Green testified that, shortly after receiving the Termination for Cause Letter, she contacted an Assurant employee and requested a copy of the investigative report which ultimately led to Respondent’s termination (the “Report”). (Tr. at pp. 28-29).

24. On April 26, 2013, Mrs. Green received a copy of the Report, subject to certain confidential redactions. (Ex. 8; Tr. at pp. 29-30).

25. The Report states Assurant investigated Respondent’s business practices after receiving an anonymous complaint alleging he had “committed financial fraud with their company.” (Ex. 8 at p. 12).

26. The Report further states that a February 2013 review of Respondent’s business accounting revealed “a large number of duplicate billing entries in December [2012] and January [2013].” (Ex. 8 at p. 12). The Report further states “[t]he December entries and two of the January entries used a bank account number ending in 7690 at JP Chase Indiana [as a method of payment]. The rest of the January entries used an account number ending in 3915 at the Huntington National Bank.” (Ex. 8 at p. 12).

27. Attached to the Report, is a copy of Assurant’s record of policies sold by Respondent. (Ex. 8 at pp. 6-7). Said records indicate that Respondent is the Agent of Record for Sixty Eight (68) different policies. (Ex. 8 at pp. 6-7). Of these, Forty Eight (48) policies were to have the first

month's premium withdrawn from a bank account number ending in 7690 and the remaining Twenty (20) were to be paid from a bank account number ending in 3915. (Ex. 8 at pp. 6-7).

28. Mrs. Green testified that, based on her calls with Assurant employees, Assurant believed Respondent owned or had access to both of the above-mentioned bank accounts, and the applicants did not. (Tr. at pp. 32-33).

29. Mrs. Green further testified that, based on her independent investigation, she also believes Respondent owned or had access to both of the above-mentioned bank accounts. (Tr. at p. 33).

30. The Report notes Respondent did not respond to Assurant's investigative inquiries, aside from an initial e-mail stating he would look into these concerns, Respondent "has not responded to the specific questions regarding the duplicate billing information." (Ex. 8 at p. 13).

31. The Report further states "[Respondent] stopped writing with us [in] the end of January and now has a debit balance." (Ex. 8 at p. 13).

32. Mrs. Green testified that she discussed the contents of the Report with an Assurant employee and, as a result of those discussions, requested additional information. (Tr. at p. 36). The Department received that additional information in the form of May 16, 2013 letter and accompanied attachments. (Tr. at p. 36; Ex. 9).

33. Said letter states "[Respondent] submitted applications for Eighteen (18) different individuals that used the same two banking account numbers. However, more than one application was submitted for each individual." (Ex. 9 at p. 1).

34. Attached to the letter is a summary, created by an Assurant employee, of the policies provided for said individuals. (Ex. 9 at p. 3). This summary identifies the type of

supplemental insurance policies associated with those individuals, totaling of Sixty Eight (68) policies. (Ex. 9 at p. 3).

35. Mrs. Green testified that each of these Sixty Eight (68) policies was submitted with one of the two above-mentioned bank accounts listed as a form of payment. (Tr. at p. 39).

36. Also attached to the letter is a summary, also created by an Assurant employee, of the status of a sampling of these policies. (Ex. 9 at pp. 4-5). Per that summary, the above-mentioned policies have a recorded Policy Status as "Terminated." (Ex. 9 at pp. 4-5). Also per that summary, the recorded Policy Status Reason reads "Lapse/Non Payment Automated" for said policies. (Ex. 9 at pp. 4-5).

37. Mrs. Green testified that, after the above-mentioned policies were given effect, each policy was terminated for nonpayment of premiums. (Tr. at p. 40). Mrs. Green further testified that Respondent was compensated for the issuance of the above-mentioned policies. (Tr. at pp. 40—41).

38. Mrs. Green testified that Respondent received unearned commissions, or "a lump sum payment for each [policy sale], prior to any of the premiums being received from the individuals." (Tr. at p. 40-41). Mrs. Green further testified that Respondent was required to remit those unearned commissions to Assurant, upon termination. (Tr. at p. 41).

39. Mrs. Green testified that her investigation revealed Respondent failed to remit "over \$13,000.00" in unearned commissions to Assurant. (Tr. at p. 41). Mrs. Green testified that she contacted an Assurant employee to verify the amount of unearned commissions Respondent owes Assurant. (Tr. at p. 42). Mrs. Green further testified that, in response to her request, she received an affidavit from Christine Fleissner. (Tr. at pp. 42—43).

40. The Affidavit of Christine Fleissner states the following:



- a. "I am currently employed at Time Insurance Company, marketed as [Assurant], as a Director, Financial Services. I have been employed in this position for seven years." (Ex. 10 at p. 1).
- b. "On October 17, 2013, I performed an account review of [Respondent], an agent of Assurant." (Ex. 10 at p. 1).
- c. "That account review revealed that Respondent owed Assurant Health unearned commissions and unpaid appointment fees in the amount of \$13,614.47." (Ex. 10 at p. 1).
- d. "As of this date, Respondent has not remitted monies towards the outstanding balance due and owed to Assurant." (Ex. 10 at p. 1).

41. The Affidavit of Christine Fleissner was executed October 22, 2013. (Ex. 10 at p. 2).

42. Mrs. Green testified that, during the course of her investigation, she learned the State of West Virginia revoked Respondent's nonresident license. (Tr. at p. 44).

#### **West Virginia Revocation**

43. On September 11, 2013, the Indiana Commissioner of the State of West Virginia issued Final Order 13-AP-PRLC-02089 ("West Virginia Order"). (Ex. 11 at p. 1).

44. Mrs. Green obtained a copy of the West Virginia Order through a database which tracks administrative actions taken against licensed producers. (Tr. at p. 44).

45. The West Virginia Order ordered Respondent's nonresident producer license to be revoked and that he pay a civil penalty to the State of West Virginia in the amount of Five Hundred Dollars and no/100 (\$500.00). (Ex. 11 at p. 1). The West Virginia Order also adopted and approved the Recommended Decision of the Hearing Examiner. (Ex. 11 at p. 1).

46. The Recommended Decision of the Hearing Examiner states the following:

- a. “The Respondent resides in Indiana and holds an active resident producer license from that jurisdiction.” (Ex. 11 at p. 3).
- b. “In December 2012 and January 2013, Respondent submitted a large number of duplicate billings to [Assurant] resulting [in] overpayments to him, this accomplished by the use of multiple bank accounts.” (Ex. 11 at p. 3).
- c. “No appearance was made by or on behalf of the Respondent.” (Ex. 11 at p. 2).

47. Mrs. Green testified that the revocation of Respondent’s nonresident license was likely the result of West Virginia receiving Termination for Letter and/or the Report. (Tr. at p. 48).

#### **CONCLUSIONS OF LAW**

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

49. The hearing was held in compliance with the Indiana Administrative Orders and Procedures Act, codified at Ind. Code § 4-21.5 *et seq.*.

50. The Department complied with those service of process requirements set forth in with Ind. Code § 4-21.5-3-1. Specifically, Ind. Code § 4-21.5-3-1(f) states, in pertinent part, that if the current address of a person is not ascertainable, service shall be mailed to the last known address where the person resides or has a principal place of business. The Department ascertained the Bargersville Address as Respondent’s current address. Additionally, the Department served mail on the last known address where Respondent—the Bargersville Address—and his principle place of business—the Business Address.

51. Additionally, Ind. Code § 4-21.5-3-20(a) requires “an agency [to] give at least five (5) days notice of the hearing.” This hearing was conducted on December 5, 2013. Notice for the hearing was delivered November 19, 2013—sixteen (16) days before the hearing.

52. Pursuant to Ind. Code § 27-1-15.6-12(b)(4), 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, permanently revoke an insurance producer's license, for improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.

53. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent improperly withheld, misappropriated or converted monies or properties received in the course of doing insurance business. Specifically, Respondent failed to remit unearned premiums and/or unpaid appointment fees to Assurant, in the amount of Thirteen Thousand Six Hundred Fourteen Dollars and 47/100 (\$13,614.47). Thus, under Ind. Code § 27-1-15.6-12(b)(4), Respondent is subject to the disciplinary action.

54. Pursuant to Ind. Code § 27-1-15.6-12(b)(8), 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, permanently revoke an insurance producer's license, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

55. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent used fraudulent, coercive or dishonest practices in the conduct of business in Indiana or elsewhere. Specifically, Respondent submitted sixty eight (68) policy applications for eighteen (18) individuals, with initial premiums to be withdrawn from checking accounts; collected unearned premiums and/or unpaid appointment fees for the sale of those policies; and failed to remit said unearned premiums and/or unpaid appointment fees to Assurant, once

he was terminated for this conduct. Thus, under Ind. Code § 27-1-15.6-12(b)(8), Respondent is subject to disciplinary action.

56. Pursuant to Ind. Code § 27-1-15.6-12(b)(9), 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, permanently revoke an insurance producer's license, for having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory.

57. The Department has met its burden of proof in showing, by a preponderance of the evidence, that Respondent had an insurance producer license, or its equivalent, revoked in another state. Specifically, on September 11, 2013, the State of West Virginia revoked Respondent's nonresident producer license. Thus, under Ind. Code § 27-1-15.6-12(b) (9), Respondent is subject to disciplinary action.

58. Pursuant to Ind. Code § 27-1-15.6-12(b)(2)(A), 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, permanently revoke an insurance producer's license, for violating an insurance law. Ind. Code § 27-1-15.6-7(h) is such a law.

59. Ind. Code § 27-1-15.6-7(h) states that a licensee shall inform the Commissioner of a change of address not more than thirty (30) days after the change by any means acceptable to the Commissioner.

60. The Department has met its burden of proof in showing, by preponderance of the evidence, that Respondent changed his residential address at least three times from May 2013 through December 2013, without ever notifying the Commissioner. Thus, under Ind. Code § 27-1-15.6-12(b) (2) (A), Respondent is subject to disciplinary action.

61. In total, Respondent violated four separate Indiana insurance laws. The length of time over which these violations occurred show that these are not mere aberrations.
62. Ind. Code § 27-1-15.6-12(m) permits the Commissioner to order a licensee to make restitution if the Commissioner finds that the licensee has committed a violation described in subsections (b)(4) and (b)(8), among other sections.
63. Again, the Department has met its burden of proof in showing Respondent's conduct violated Ind. Code § 27-1-15.6-12(b) (4) and Ind. Code § 27-1-15.6-12(b) (8). Thus, the Commissioner may order restitution.
64. Here, the Department has shown, by a preponderance of the evidence, that Respondent owes Assurant unearned premiums and/or unpaid appointment fees in the amount of Thirteen Thousand Six Hundred Fourteen Dollars and 47/100 (\$13,614.47). Furthermore, the Respondent's violations of Ind. Code §§ 27-1-15.6-12(b) (4) and 12(b) (8) arise out of his failure to remit said unearned premiums and/or unpaid appointment fees.
65. Finally, pursuant to Ind. Code § 27-1-15.6-12(f), the Commissioner may, in addition to or in lieu of any applicable denial, suspension, or revocation of a license under subsection (b), a person may, after a hearing, be subject to the imposition by the Commissioner under subsection (b) of a civil penalty of not less than fifty dollars (\$50) and not more than Ten Thousand Dollars (\$10,000).
66. The Department has shown, by a preponderance of the evidence, that not only did Respondent's conduct violate four (4) separate insurance laws, but he failed to respond to the Department's numerous inquiries about his conduct. Additionally, the Department has shown, by a preponderance of the evidence that Respondent failed to cooperate with investigations conducted by Assurant and West Virginia's Department of Insurance. Such

behavior warrants a civil penalty.

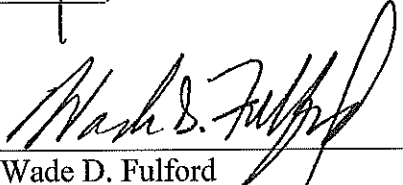
67. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

**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. That Respondent's license be permanently revoked;
2. That Respondent pay Assurant restitution in the amount of Thirteen Thousand Dollars Six Hundred Fourteen Dollars and 47/100 (\$13,614.47);
3. That Respondent pays a civil penalty of Two Hundred Fifty Dollars and no/100 (\$250.00) per violation, for a total civil penalty of One Thousand Dollars and no/100 (\$1,000.00);

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the Commissioner this 27<sup>th</sup> day of February, 2014.

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

Distribution:

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