

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13582-AG15-0218-026

IN THE MATTER OF: )

Mark S. Mitchell, )  
 )  
Producer / Respondent. )  
License No.: 907854 )

2571A Coral Way )  
Daytona Beach, FL 32118 )

Type of Action: Enforcement )

**FILED**

AUG 07 2015

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On May 8, 2015, the Administrative Law Judge, Rueben B. Hill, filed his Default Order in the above-captioned matter.

1. The Department served the Default Order on Respondent by mailing the same to his home address of record.

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 Default 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 Default Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's Producer Insurance License Number: 907854 is permanently revoked.

2. Respondent is to pay a civil penalty in the amount of One Thousand Dollars (\$1000.00) within ninety (90) days.

ALL OF WHICH IS ORDERED by the Commissioner this 7<sup>th</sup> day of August, 2015.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Mark S. Mitchell  
2571A Coral Way  
Daytona Beach, FL 32118

Joshua Harrison  
Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street, Suite 103  
Indianapolis, IN 46204-2787

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

SS:

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER:13582-AG15-0218-026

IN THE MATTER OF:

Mark S. Mitchell  
2571A Coral Way  
Daytona Beach, FL 32118

License No. 907854

Type of Action: Enforcement

**FILED**

MAY 08 2015

STATE OF INDIANA  
DEPT. OF INSURANCE

### DEFAULT ORDER

Pursuant to Indiana Code § 4-21.5-3-24 and Ind. Code § 4-21.5-3-27, the  
Administrative Law Judge in this matter issues the following Default Order:

#### Findings of Fact

1. Mark S Mitchell ("Respondent") is a nonresident insurance producer holding license number 907854.
2. On February 20, 2015, the Enforcement Division of the Indiana Department of Insurance (the "Department") filed its Statement of Charges against Respondent.
3. A hearing on the allegations asserted in the Statement of Charges was set for and held on April 21, 2015 at 1:00 P.M.
4. Respondent failed to appear or participate in that April 21, 2015 hearing.
5. On April 21, 2015, this Court issued a Proposed Default Order.
6. The Proposed Default Order was sent to the address of record via certified mail number 9214 8901 0661 5400 0057 2455 66.

6. Respondent has failed to file a written motion responding to the Proposed Default Order.

7. On April 21, 2015, pursuant to Ind. Code § 4-21.5-3-24(b), the administrative law judge conducted the proceeding without the participation of the Respondent.

8. At that time, the Department admitted the following exhibits in support of its Statement of Charges:

- a. Respondent's Uniform Application for Individual Producer's License from 2013 (Exhibit 1);
- b. 2003 Final Order from the Florida Department of Financial Services (Exhibit 2)
- c. 2013 License Application Denial letter from the state of South Dakota (Exhibit 3)
- d. 2013 License Application Denial letter from the state of Wisconsin (Exhibit 4)
- e. 2014 Default Order of Revocation from the state of Iowa (Exhibit 5)
- f. Default Decision and Order of Revocation from the state of California (Exhibit 6)
- g. 2014 Final Order from the state of Kansas (Exhibit 7)
- h. Order Revoking License in the state of Washington (Exhibit 8)

9. Respondent failed to indicate the 2003 Florida action on his 2013 application for licensure in Indiana.

10. Respondent failed to inform the Department of the actions in South Dakota, Wisconsin, Iowa, California, Kansas, and Washington as well as other actions in the states of Delaware and Louisiana.



### Conclusions of Law

1. The Commissioner has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Indiana Administrative Orders and Procedures Act, codified at Ind. Code § 4-21.5 *et seq.*
3. Pursuant to Ind. Code § 4-21.5-324(a)(3), if a party fails to attend or participate in a hearing, the administrative law judge may serve upon all parties written notice of a proposed default order.
4. Respondent failed to attend or participate in the April 21, 2015 hearing and such a Proposed Default Order was served upon all parties.
5. Pursuant to Ind. Code § 4-21.5-3-24(d), after issuing a default order, the administrative law judge shall conduct any further proceedings necessary to complete the proceeding without the participation of the party in default.
6. Regardless of whether the administrative law judge is the ultimate authority, the order disposing of the proceeding must comply with Ind. Code § 4-21.5-3-27(a).
7. Pursuant to Ind. Code § 27-1-15.6-12(b)(1), the Commissioner may revoke a producer's license and impose a civil penalty if the producer has provided incorrect, misleading, incomplete, or materially untrue information in a license application.
8. Respondent failed to indicate the 2003 Florida action on his 2013 application for licensure in the state of Indiana.
9. Pursuant to Ind. Code § 27-1-15.6-12(b)(9), the Commissioner may revoke a producer's license and impose a civil penalty if the producer has had an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state,

province, district or territory.

10. Respondent has had his producer's license, or its equivalent denied, suspended, and/or revoked by the states of Florida, South Dakota, Wisconsin, Louisiana, Iowa, California, Kansas, Delaware, and Washington.
11. Additionally, pursuant to Ind. Code § 27-1-15.6-12(b)(2)(A), the Commissioner may revoke a producer's license and impose a civil penalty if the producer violates an insurance law.
12. Ind. Code § 27-1-15.6-17(a) requires a producer to report to the Commissioner, not more than thirty (30) days after the final disposition, any administrative action taken against the producer in another jurisdiction.
13. Respondent failed to report administrative actions taken against him by the states of South Dakota, Wisconsin, Louisiana, Iowa, California, Kansas, Delaware, and Washington.
14. Findings of Fact than can be adopted as Conclusions of Law are hereby incorporated herein as such.

#### **Recommended Order**

Having found Respondent to be in default, and based on the above Findings of Fact and the Conclusions of Law, Administrative Law Judge Reuben B. Hill now recommends to the Commissioner the following:

1. The permanent revocation of Respondent's license; and
2. The imposition of a civil penalty against Respondent in the amount of One Thousand Dollars and no/100 (\$1000.00), due within ninety (90) days of the Final Order.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and  
recommended to the Commissioner this 8<sup>th</sup> day of May, 2015.



Reuben B. Hill,  
Administrative Law Judge

This Notice has been sent to:

Mark S. Mitchell  
2571A Coral Way  
Daytona Beach, FL 32118

Joshua D Harrison  
Indiana Department of Insurance  
311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER:13582-AG15-0218-026

IN THE MATTER OF: )

Mark S. Mitchell )  
2571A Coral Way )  
Daytona Beach, FL 32118 )

License No. 907854 )

Type of Action: Enforcement )

**FILED**

**APR 23 2015**

**STATE OF INDIANA  
DEPT. OF INSURANCE**

**PROPOSED DEFAULT ORDER**

Pursuant to Indiana Code § 4-21.5-3-24, the Administrative Law Judge in this matter issues the following Proposed Default Order and the following statement of the grounds in support thereof:

1. Mark S Mitchell ("Respondent") is a non-resident insurance producer holding license number 907854.

2. On February 20, 2015, the Enforcement Division of the Indiana Department of Insurance (the "Department") filed its Statement of Charges against Respondent. The Department's Statement of Charges alleges seventeen (17) violations of Indiana insurance code.

3. The Department complied with the notice requirements set forth in Ind. Code § 4-21.5-3 *et seq.* and a hearing on the abovementioned issues in the Statement of Charges was set for and held on April 21, 2015 at 1:00 P.M.

4. Respondent failed to appear or participate in the April 21, 2015 hearing.

5. Pursuant to Ind. Code § 4-21.5-3-24(a)(2), if a party fails to attend or



participate in a hearing, the administrative law judge may serve upon all parties written notice of a proposed default order. This Proposed Default Order is notice of such an order.

WHEREFORE, the Administrative Law Judge in this matter hereby gives notice that, if Respondent fails to file a written motion under 4-21.5-3-24(b), a Default Order shall be issued with recommendations that the Commissioner take the following actions:

1. Permanently revoke Respondent's license; and
2. Impose against Respondent a civil penalty in the amount of One Thousand dollars (\$1000.00) within ninety (90) days of the Final Order.

ALL OF WHICH IS ORDERED this 23<sup>rd</sup> day of April, 2015.

Dated: 4-23-15



Reuben B. Hill,  
Administrative Law Judge  
Indiana Department of Insurance

This Notice has been sent to:

Mark S Mitchell  
2571A Coral Way  
Daytona Beach, FL 32118

Joshua D Harrison, Attorney  
Indiana Department of Insurance  
311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204

CERTIFIED MAIL #: 9214 8901 0661 5400 0057 2455 666  
RETURN RECEIPT REQUESTED

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13582-AG15-0218-026

IN THE MATTER OF:

Mark S. Mitchell  
2571A Coral Way  
Daytona Beach, FL 32118

License No. 907854

Respondent.

**FILED**

FEB 20 2015

STATE OF INDIANA  
DEPT. OF INSURANCE

**STATEMENT OF CHARGES**

The Enforcement Division of the Indiana Department of Insurance ("Department"), pursuant to Ind. Code §§ 4-21.5-1 and 27-1-15.6 *et seq.*, files its Statement of Charges against Mark S. Mitchell ("Respondent"), a non-resident insurance producer licensed in the State of Indiana, as follows:

**FACTS**

1. On September 19, 2013, Respondent submitted the Uniform Application for Individual Producer License/Registration (the "Application") to the Department. The application, promulgated by the National Association of Insurance Commissioners ("NAIC") and used as the basis for licensure in the State of Indiana, includes a list of questions to be answered by the Respondent.
2. Question two of the Application required the Respondent to acknowledge any prior administrative proceedings regarding Respondent's professional license. The question further clarified that it includes any license censure, suspension, revocation, cancellation, termination, surrender to resolve administrative action, license denial, or application withdrawal to avoid denial.

3. Respondent answered that he had not be subject to any of the actions described in question two.
4. Based upon the responses in the application, Respondent was granted a non-resident producer's license in September of 2013 under producer number 907854.
5. On or around January 07, 2015, the Department received notification from the NAIC Producer Database that the Respondent had been subject to disciplinary actions in Florida, South Dakota, Wisconsin, Louisiana, Iowa, California, and Kansas .
6. The Department initiated an investigation based upon the information contained in the NAIC notification. Calla Dain, investigator with the Enforcement Division of the Department, was assigned the case.
7. Over the course of the investigation, it was discovered that Respondent was subject to several disciplinary actions across a number of states.
8. Investigator Dain was able to acquire documentation of a 2003 producer license suspension in the state of Florida, which was not noted on Respondent's Application.
9. Investigator Dain obtained evidence that Respondent had been denied licenses in South Dakota and Wisconsin in 2013 based on incompleteness and failure to disclose previous administrative actions on the respective applications.
10. Investigator Dain was able to confirm that Respondent's producer license was subject to an administrative action by the Louisiana Department of Insurance, in which he was to pay a civil penalty of two hundred fifty dollars (\$250.00).
11. Investigator Dain was able to acquire documentation that Respondent's producer's license had been revoked in the states of Iowa, California, and Kansas in 2014 for failure to report another state's action and for failure to cooperate in the department's investigation.



12. Investigator Dain was able to confirm that Respondent's producer license revoked in 2015 in Delaware and Washington also for failure to report another state's action, and for failure or refusal to cooperate in an investigation by the department.
13. Indiana Code 27-1-15.6-12(b) states that the Commissioner of the Indiana Department of Insurance, (the "Commissioner"), may levy a civil penalty and/or permanently revoke an insurance producer's license for any of an enumerated list of factors.
14. Specifically listed as a basis for administrative action under Indiana Code 27-1-15.6-12(b)(1) is providing incorrect, misleading, incomplete, or materially untrue information in a license application.
15. Additionally, Indiana Code 27-1-15.6-12(b)(9) states that having an insurance producer's license, or its equivalent, denied, suspended, or revoked in any other state is also grounds for administrative action.
16. Indiana Code 27-1-15.6-17(a) requires that a producer report any administrative action taken against the producer in another jurisdiction to the Commissioner within thirty (30) days of the final disposition in the matter.

### **CHARGES**

#### **COUNT I**

17. Respondent's Florida producer license was suspended on January 31, 2003.
18. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

#### **COUNT II**

19. Respondent failed to disclose his 2003 Florida license suspension on his 2013 application for licensure in the state of Indiana.
20. Respondent's conduct is in violation of Indiana Codes § 27-1-15.6-12(b)(1).



### **COUNT III**

- 21. Respondent's producer license was denied in South Dakota on December 09, 2013.
- 22. Respondent's conduct is in violation of Indiana Codes § 27-1-15.6-12(b)(9).

### **COUNT IV**

- 23. Respondent failed to report his South Dakota license denial to the Department.
- 24. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

### **COUNT V**

- 25. Respondent's license was denied in Wisconsin on November 11, 2013.
- 26. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

### **COUNT VI**

- 27. Respondent failed to report his Wisconsin license denial to the Department.
- 28. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

### **COUNT VII**

- 29. Respondent failed to report a Louisiana administrative action on December 11, 2014.
- 30. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

### **COUNT VIII**

- 31. Respondent's license was revoked in Iowa on June 30, 2014.
- 32. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

### **COUNT IX**

- 33. Respondent failed to report his Iowa license revocation to the Department.
- 34. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

### **COUNT X**

- 35. Respondent's license was revoked in California on September 26, 2014.
- 36. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

**COUNT XI**

- 37. Respondent failed to report his California license revocation to the Department.
- 38. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

**COUNT XII**

- 39. Respondent's license was revoked in Kansas on November 25, 2014.
- 40. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

**COUNT XIII**

- 41. Respondent failed to report his Kansas license revocation to the Department.
- 42. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

**COUNT XIV**

- 43. Respondent's license was revoked in Delaware on January 09, 2015.
- 44. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

**COUNT XV**

- 45. Respondent failed to report his Delaware license revocation to the Department.
- 46. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).

**COUNT XVI**

- 47. Respondent's license was revoked in Washington on January 09, 2015.
- 48. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(9).

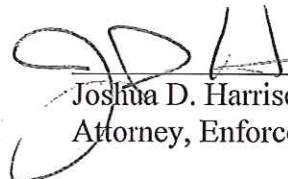
**COUNT XVII**

- 49. Respondent failed to report his Washington license revocation to the Department.
- 50. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(a).
  
- 51. Indiana Code 27-1-15.6-12(f) states that in addition to denial, suspension, or revocation, the Commissioner may impose a civil penalty up to ten thousand dollars (\$10,000.00) for violation of Indiana Code 27-1-15.6-12

**WHEREFORE**, the Enforcement Division of the Indiana Department of Insurance, by counsel, Joshua D. Harrison, requests that the Commissioner issue an order that states:

- (1) Respondent's non-resident producer's license is permanently revoked;
  - (2) Respondent shall pay a civil penalty in the amount of ten thousand dollars (\$10,000.00);
- and all other relief necessary and proper upon the premise.

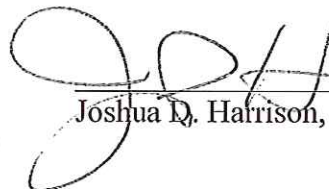
Respectfully submitted,

  
Joshua D. Harrison, #27145-49  
Attorney, Enforcement Division

Indiana Department of Insurance  
311 West Washington Street, Suite 103  
Indianapolis, IN 46204-2787  
Phone: (317) 232-2422  
Facsimile: (317) 234-2103

**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 20 day of February, 2015.

  
Joshua D. Harrison, Attorney

Mark S. Mitchell  
2571A Coral Way  
Daytona Beach, FL 32118

**CERTIFIED MAIL RECEIPT: 9214 8901 0661 5400 0050 6141 16**