

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 12192-AG16-0629-182

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
OF:)
)
Sharleen Miller)
114 E. Clinton St.)
Goshen, IN 46528)
)
Respondent.)

FILED
DEC 19 2016
STATE OF INDIANA
DEPT. OF INSURANCE

ORDER GRANTING MOTION TO DISMISS

The Administrative Law Judge, having read and carefully considered the Enforcement Division's Motion to Dismiss, orders that:

1. The Statement of Charges and Motion for Summary Judgment filed against Respondent in the above-captioned matter shall be dismissed.

ALL OF WHICH IS ORDERED THIS 19th day of December 2016.



Reuben B. Hill
Administrative Law Judge

Distribution:

Cathleen Nine-Altevogt
INDIANA DEPARTMENT OF INSURANCE

311 W. Washington Street, Suite 103
Indianapolis, IN 46204

Sharleen Miller
114 E. Clinton St.
Goshen, IN 46528

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

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Sharleen Miller)
114 E. Clinton St.)
Goshen, IN 46528)
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Respondent.)

FILED

DEC 16 2016

STATE OF INDIANA
DEPT. OF INSURANCE

MOTION TO DISMISS

Comes now the Enforcement Division of the Indiana Department of Insurance (“Department”) by counsel and files a Motion to Dismiss its Statement of Charges and Motion for Summary Judgment in the above-captioned matter. In support of said motion the Enforcement Division states as follows:

1. On July 8, 2015, the Enforcement Division of the Department filed a Statement of Charges against Sharleen Miller (“Respondent”) for failure to pay state income tax, as well as her failure to report to the Department her criminal prosecution of Class C Misdemeanor Operating While Intoxicated in Noble County, Indiana.
2. On July 22, 2015, the Enforcement Division of the Department filed a Motion for Summary Judgment asking for the permanent revocation of Respondent’s license and a fine.
3. On September 1, 2015, Respondent, by counsel, filed her response to the Statement of Charges and Motion for Summary Judgment admitting that she had failed to notify the Department of her criminal prosecution and admitting that she owed taxes but disputing the amount of taxes owed to the Indiana Department of Revenue (“IDOR”).

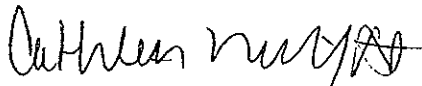
4. Several status conferences were held at the Department regarding Respondent's attempts to establish a payment plan with the IDOR.

5. On November 30, 2016, Respondent's insurance producer license number 1774710 expired.

6. The Department was made aware that Respondent has sold her insurance agency.

7. As Respondent no longer has an active insurance producer license, permanent revocation is no longer appropriate.

WHEREFORE, the Department requests that the Commissioner issue an order dismissing the Statement of Charges and Motion for Summary Judgment in the above-captioned matter and for all other relief just and necessary on the premise.



Cathleen Nine-Altevogt, # 32706-49
Attorney, Indiana Department of Insurance

Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
(317) 234-5887 - phone
(317) 232-5251 - facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the Respondents by mailing this 16th day of December 2016.



Cathleen Nine-Altevogt

Distribution:

Cathleen Nine-Altevogt
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

Sharleen Miller
114 E. Clinton St.
Goshen, IN 46528

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 12192-AG15-0629-182

IN THE MATTER OF:)

Sharleen A. Miller)
Respondent)

114 E. Clinton St)
Goshen, IN 46528)

License Number: 1774710)

Type of Action: Enforcement)

FILED

JUL 22 2015

STATE OF INDIANA
DEPT. OF INSURANCE

MOTION FOR SUMMARY JUDGMENT

Comes now the Indiana Department of Insurance ("Department") and files its Motion for Summary Judgment pursuant to Indiana Code 4-21.5-3-23 and Indiana Rules of Trial Procedure 56 in the above captioned cause. In support of said motion, the Department states as follows:

Facts:

1. Sharleen A. Miller ("Respondent") is a resident insurance producer under license # 1774710.

2. On April 25, 2013, the Indiana Department of Revenue ("IDOR") contacted the Department and inquired about the status of Respondent's Indiana insurance producer license and Respondent's insurance agency. The IDOR representative stated that they had placed a Protest against Respondent's license because she had failed to satisfy her tax liabilities. (Department's Exhibit 1, Affidavit of Investigator Mike Herndon)

3. On April 29, 2013, the IDOR sent copies of Respondent's Outstanding Tax Liability Spreadsheet to the Department. The spreadsheets documented the fact that Respondent had a personal outstanding Indiana tax liability of twenty three thousand, three hundred twenty six dollars, and sixty nine cents (\$23,326.69). The spreadsheets also documented an agency outstanding tax liability of sixty one thousand, seven hundred thirty two dollars, and ninety one cents (\$61,732.91). (*Id.*)

4. Respondent was contacted numerous times over a period of months and was made aware of the tax liabilities. On an earlier occasion, the Department investigator discussed an Agreed Entry with her and she stated that she would have her accountant call. Respondent's accountant never called. Additional calls were made to the Respondent, messages were left in two of her telephone voice mail boxes, and a message was left with Respondent's receptionist with negative results. (*Id.*)

5. On February 16, 2015, the IDOR notified the Department that the Respondent's personal outstanding Indiana tax liability was now twenty two thousand, six hundred seventy nine dollars, and eighty two cents (\$22,679.82). The up-dated spreadsheets also documented an agency outstanding tax liability of sixty eight thousand, eight hundred ninety three dollars, and ninety one cents (\$68,893.91). (Department's Exhibit 2)

6. On November 19, 2007, a criminal charge of Operating While Intoxicated, a Class C misdemeanor, was filed in Noble County, Indiana against the Respondent and an initial pretrial hearing was held. Respondent failed to notify the Department of the criminal prosecution within the thirty (30) days as required by Indiana Code. (Exhibit 1)

Argument:

1. Indiana Code 4-21.5-3-23(a) states that a party may, at any time after a matter is assigned to an administrative law judge, move for a summary judgment in the party's favor as to all issues in the proceeding.

2. Indiana Code 4-21.5-3-23(b) states that an administrative law judge shall consider a motion filed under subsection (a) as would a court that is considering a motion for summary judgment filed under Trial Rule 56 of the Indiana Rules of Trial Procedure.

3. Trial Rule 56 states that that judgment sought shall be rendered forthwith if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

4. Trial Rule 56 states that if the Respondent fails to set forth specific facts showing there is a genuine issue, then summary judgment, if appropriate, shall be entered against him.

5. Indiana Code § 27-1-15.6-2(b)(14) provides that the commissioner may levy a civil penalty, place an insurance producer on probation, suspend a producer's license, permanently revoke an insurance producer's license, or any combination of these actions for failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

6. Indiana Code § 27-1-15.6-17(b) states that not more than thirty (30) days after an initial pretrial hearing, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.

7. Indiana Code § 27-1-15.6-12(b)(2)(A) provides that the commissioner may levy a civil penalty, place an insurance producer on probation, suspend a producer's license,

permanently revoke an insurance producer's license, or any combination of these actions for violating an Insurance law of Indiana or another state.

8. Indiana Code § 27-1-15.6-12(f) states that in addition to any denial, suspension, or revocation of license, the Commissioner can enter a civil penalty no less than fifty dollars (\$50.00) and not more than ten thousand dollars (\$10,000.00) for a violation of Indiana Code § 27-1-15.6-12(b).

9. There is no genuine issue of material fact as to the Respondent's outstanding tax liability in violation of Ind. Code §27-1-15.6-12(b)(14).

10. There is no genuine issue of material fact as to the Respondent's failure to notify the Department of the criminal matter within thirty (30) days of the initial hearing in violation of Ind. Code §27-1-15.6-17(b), an insurance law, and is cause for disciplinary action under Ind. Code §27-1-15.6-12(b)(2)(A).

11. As such, the Department is entitled to a judgment against the Respondent as a matter of law.

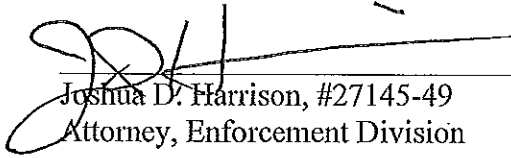
WHEREFORE, the Enforcement Division of the Indiana Department of Insurance, by counsel, Joshua D. Harrison, requests that the Court enter judgment against the Respondent and recommend to the Commissioner an order that:

(1) Respondent's resident producer's license is permanently revoked;

(2) Respondent shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00);

and all other relief necessary and proper upon the premise.

Respectfully submitted,



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

Certified Mail Receipt Number:

Copies to:

Sharleen Miller
1922 Elkhart Rd
Goshen, IN 46526

Joshua D Harrison
Indiana Department of Insurance
311 West Washington St. #103
Indianapolis, IN 46204-2787

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO: 12192-AG15-0629-182

Sharleen A. Miller,)
)
 Producer / Respondent)
 License No.: 1774710)
)
 114 E. Clinton Street)
 Goshen, Indiana 46528)
)
 Type of Agency Action: Enforcement)

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance (the "Department"), pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code Section 4-21.5-1 *et seq.*, and the Agent Licensing provisions, Indiana Code Section 27-1-15.6 *et seq.*, files charges against Sharleen A. Miller ("Respondent"), licensed insurance producer in the State of Indiana:

FACTS

1. Respondent is a licensed resident insurance producer in Indiana, holding license number 1774710.
2. On April 25, 2013, the Indiana Department of Revenue ("IDOR") contacted the Department and inquired about the status of Respondent's Indiana insurance producer license and Respondent's insurance agency. The IDOR representative stated that they had placed a Protest against Respondent's license because she had failed to satisfy her tax liabilities.

3. On April 29, 2013, the IDOR sent copies of Respondent's Outstanding Tax Liability Spreadsheet to the Department. The spreadsheets documented the fact that Respondent had a personal outstanding Indiana tax liability of twenty three thousand, three hundred twenty six dollars, and sixty nine cents (\$23,326.69). The spreadsheets also documented an agency outstanding tax liability of sixty one thousand, seven hundred thirty two dollars, and ninety one cents (\$61,732.91).

4. Respondent was contacted numerous times over a period of months and was made aware of the tax liabilities. On an earlier occasion the Department investigator discussed an Agreed Entry with her and she stated that she would have her accountant call. Respondent's accountant never called. Additional calls were made to the Respondent, messages were left in two of her telephone voice mail boxes, and a message was left with Respondent's receptionist with negative results.

5. On February 16, 2015, the IDOR notified the Department that the Respondent's personal outstanding Indiana tax liability was now twenty two thousand, six hundred seventy nine dollars, and eighty two cents (\$22,679.82). The up-dated spreadsheets also documented an agency outstanding tax liability of sixty eight thousand, eight hundred ninety three dollars, and ninety one cents (\$68,893.91).

6. Respondent failed to pay state income tax.

7. On November 19, 2007, a criminal charge of Operating While Intoxicated, a Class C misdemeanor, was filed in Noble County, Indiana against the Respondent and an initial pretrial hearing was held.

8. Respondent failed to report to the Commissioner her criminal prosecution within

thirty (30) days after her initial pretrial hearing date.

9. Under Indiana law, the Commissioner may 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 any cause under Ind. Code §27-1-15.6-12.

10. Indiana Code § 27-1-15.6-12(f) states that in addition to any denial, suspension, or revocation of license, the Commissioner can enter a civil penalty no less than fifty dollars (\$50.00) and not more than ten thousand dollars (\$10,000.00) for a violation of Indiana Code § 27-1-15.6-12(b).

CHARGES

COUNT I

11. Respondent's failure to pay state income tax, as alleged herein, is cause for disciplinary action under Ind. Code §27-1-15.6-12(b)(14).

COUNT II

12. Respondent's failure to report to the Commissioner the criminal prosecution within thirty (30) days after her initial pretrial hearing date, as alleged herein, is a violation of Ind. Code §27-1-15.6-17(b), an insurance law, and is cause for disciplinary action under Ind. Code §27-1-15.6-12(b)(2)(A).

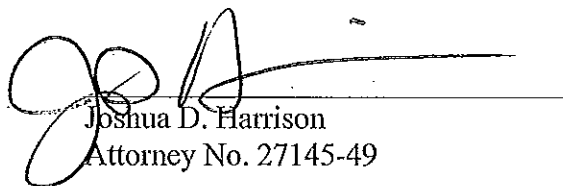
WHEREFORE, the Enforcement Division of the Indiana Department of Insurance, by counsel, Joshua D. Harrison, requests that the Commissioner issue an order that states:

(1) Respondent's producer's license is permanently revoked;

(2) Respondent shall pay a civil penalty in the amount of five thousand dollars (\$5,000.00);

and all other relief necessary and proper upon the premise.

Respectfully submitted,

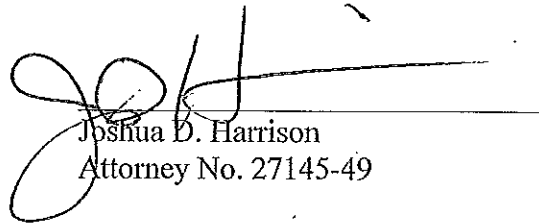


Joshua D. Harrison
Attorney No. 27145-49

CERTIFICATE OF SERVICE

This is to certify that a copy of the Statement of Charges and Notice of Hearing has been served upon Respondent in the captioned proceeding by depositing a copy of same in the United States mail, postage prepaid, this _____ day of July, 2015.

Sharleen A. Miller
114 E. Clinton Street
Goshen, Indiana 46528



Joshua D. Harrison
Attorney No. 27145-49

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