

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 14784-AG17-0620-131

IN THE MATTER OF
INSURANCE PRODUCER:

Warren W. Dale
2222 Ptarmigan Ln
Colorado Springs, CO 80918

Respondent.

FILED

APR 13 2018

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On February 19, 2018, the Administrative Law Judge, Reuben B. Hill, 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 on Respondent by mailing the same to his 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 Findings of Fact, Conclusions of Law and Recommended Order, and more than eighteen (18) days have elapsed.

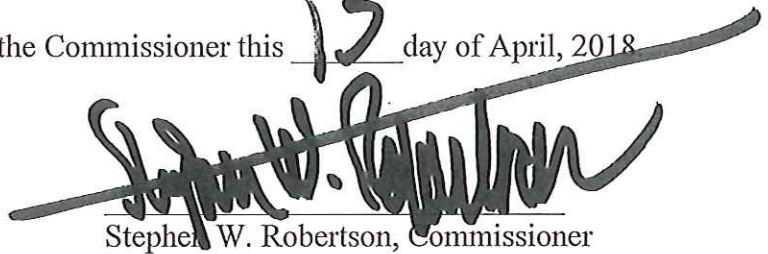
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The refusal to Renew Respondent's non-resident insurance producer license is reversed and Respondent is allowed to reapply for Indiana licensure.

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 13 day of April, 2018


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Warren Dale
2222 Ptarmigan Lane
Colorado Springs, CO 80918

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 14784-AG17-0620-131

IN THE MATTER OF:)

Insurance Producer:)

Warren W. Dale)
2222 Ptarmigan Lane)
Colorado Springs, Colorado 80918)

Applicant.)

FILED

FEB 19 2018

STATE OF INDIANA
DEPT. OF INSURANCE

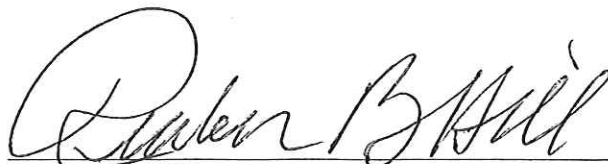
NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's
Recommended Order is 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.

DATED: 19 Feb 2018

:



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Insurance Producer:)

Warren W. Dale)
2222 Ptarmigan Lane)
Colorado Springs, Colorado 80918)

Applicant.)

CAUSE NO.: 14784-AG17-0620-131

FILED

FEB 19 2018

STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge Reuben B. Hill ("ALJ"), having heard, reviewed and considered all of the evidence, will now render a decision concerning the matter of Warren Dale ("Respondent"). This matter came on to be heard by the ALJ on January 10, 2017 at 11:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Claire Szpara. Applicant appeared by telephone and without counsel. Evidence was heard and exhibits were received into evidence.

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

FINDINGS OF FACT

1. Respondent has been a Non Resident Producer holding license number 596023 since May 7, 2008. His license expired on April 30, 2017.
2. On or about November 20, 2015, the Department was notified of Respondent's termination for cause from Transamerica Life Insurance Company ("Transamerica").
3. Transamerica provided the Department with their Investigation Memo (Department's Exhibit 1) regarding a large-scale commission scheme and Respondent's possible involvement. Transamerica investigated 1252 policies. 867 policies lapsed for failure to pay second year premium, 750 of those were sold under six (6) general agencies. Both policies were written on the same insured. The policies were issued on or around February 9, 2012.
4. Transamerica's investigation into Respondent's involvement centered around five (5) issues identified with Respondent's two (2) policies: lapses, signatures, premium payments, and financial disclosures. Specifically, both policies lapsed for failure to pay renewal premium, the insured's signature varied throughout the application file, the initial face amount applied for was doubled after the underwriting process, premium was paid by check from a company with no obvious relation to the insured, and a 2010 financial disclosure was provided to Transamerica by the insured, but nothing more recent.
5. Respondent introduced two (2) exhibits at the hearing. Respondent's Exhibit A is an explanatory letter written by Respondent. Respondent's Exhibit B is a chain of emails regarding the insured and the policies in question.

6. Respondent's Exhibit A addresses the five (5) issues Transamerica alleged as outlined in Department's Exhibit 1:

- a. Lapses. Respondent testified at the hearing that it was true 100% of his Transamerica business lapsed. Respondent clarified that the two (2) policies involved a singular client, and the reason there were two (2) policies was because Transamerica could not issue the approved face amount in one (1) policy. These were the only policies Respondent wrote under Transamerica.
- b. Signature issues. Respondent testified that Respondent's Exhibit B proves proper and authentic signatures were secured from the insured and his appointed trustee on various applications with differing carriers between 2007 and 2012. Respondent did admit that the application was taken over the phone, because the insured was in Indiana and Respondent was in Colorado. The carrier allowed it and the application was sent to the insured for signature. As to the signature irregularities, Respondent stated that the signatures were obtained at various points in time during the underwriting process.
- c. Increased face amount. Respondent stated that once underwriting was completed, an increase in the face amount was requested. Respondent explained that the increase from \$5 million to \$10 million was due to the insured experiencing a significant change in health and needing additional coverage. Respondent testified that a complete medical exam was performed on the insured, and a review of his medical records and full inspection report was completed during the initial application for a \$5 million face value.

- d. Premium payment. Respondent testified that a check from DMT Properties at Greenfield Banking Company was issued. Respondent clarified that "DMT" stood for the initials of the insured and his wife, and that DMT Properties was a DBA. Respondent also clarified that the check issued for the annual premium was sent by the insured directly to Transamerica.
 - e. Financial Disclosure. Respondent testified that the financial documents submitted were from 2010, and the reason that more recent financial documents were not submitted was simply because the 2011 documents were not finished. Respondent stated that the 2010 financials were presented to Transamerica and those documents were approved.
- 7. Respondent stated during the hearing that he never received the correspondence from Transamerica regarding his termination because it was sent to his former address, and Respondent had no forwarding address.
 - 8. Respondent stated he intends to take action against Transamerica and challenge their allegations leading to his termination for cause.

CONCLUSIONS OF LAW

- 1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
- 2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
- 3. Indiana Code 27-1-15.6-12(b) states that the Commissioner may refuse to renew an Insurance Producer License, due to a number of factors.

4. Specifically, Indiana Code 27-1-15.6-12(b) allows the Commissioner to refuse to renew an Insurance Producer License for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
5. Specifically, Indiana Code 27-1-15.6-12(b)(10) allows the Commissioner to refuse to renew an Insurance Producer License for forgoing another's name to an application for insurance or to any document related to an insurance transaction.
6. Respondent's termination for cause for allegedly violating Transamerica's rules and regulations and engaging in dishonest or fraudulent practices, including a 100% lapse in business, signature inconsistencies among application documents premium payments made by a seemingly unrelated third party, and not providing a most up-to-date detailed financial disclosure for insured, is evidence of violating Indian Codes 27-1-15.6-12(b)(8) and 27-1-15.6-12(b)(10). Facts in mitigation include Respondent's evidence showing proper and authentic signatures were secured from insured, Respondent's longstanding working relationship with insured, and Transamerica's acceptance of certain documentation that was later considered an issue in the investigation memo.
7. Indiana Code 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. Respondent is requesting that the Department renew his Non Resident Producer License and, therefore, bears the burden.
8. Pursuant to Indiana Code 27-1-15.6-12(d), the hearing was held to determine the reasonableness of the Commissioner's decision, due to mitigating factors, Respondent should be allowed to renew his Non Resident License in Indiana.

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

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED:

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. That the refusal to renew Respondent's Non Resident Insurance Producer License be reversed and Respondent allowed to reapply for Indiana licensure.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 19th day of February, 2018.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Warren Dale
2222 Ptarmigan Lane
Colorado Springs, Colorado 80918

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington Street, Suite 103
Indianapolis, Indiana 46204

STATE OF INDIANA)
)
COUNTY OF MARION)

SS:

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 14784-AG17-0620-131

IN THE MATTER OF:

Warren W. Dale
Respondent

2222 Ptarmigan Ln
Colorado Springs, CO 80918

Type of Agency Action: Enforcement

License Number: 596023

FILED

JUN 30 2017

STATE OF INDIANA
DEPT. OF INSURANCE

ADMINISTRATIVE ORDER
NOTICE OF NONRENEWAL OF LICENSE

The Indiana Department of Insurance, pursuant to Indiana Code § 4-21.5-1 *et seq.*, and Indiana Code § 27-1-15.6-12, hereby gives notice to Warren W. Dale, ("Respondent") of the following Administrative Order:

1. Respondent, a nonresident of Indiana, is a licensed insurance producer holding license number 596023 since May 07, 2008 ("Respondent's license").

2. Respondent's license expired on April 30, 2017.

3. On or about November 20, 2015, the Enforcement Division of the Indiana Department of Insurance ("Enforcement Division") received notification that Respondent was terminated for cause from Transamerica Life Insurance Company due to allegations of bogus business and forgery.

4. Pursuant to Indiana Code § 27-1-15.6-12(b)(8), the Commissioner may refuse to renew an insurance producer license for using fraudulent, coercive, or dishonest practices, or

demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

5. Pursuant to Indiana Code § 27-1-15.6-12(b)(10), the Commissioner may refuse to renew an insurance producer license for forging another's name to an application for insurance or to any document related to an insurance transaction.

6. Indiana Code § 27-1-15.6-12(d) requires the Commissioner to notify a licensee of the reason for the nonrenewal of his license. This Order serves as that notice.

7. The Commissioner further notifies Respondent that, pursuant to Indiana Code § 27-1-15.6-12(d), Respondent may, within sixty-three (63) days of the mailing of this Order, make a written demand upon the Commissioner for a hearing to determine the reasonableness of this action. Such a hearing shall be held within thirty (30) days from the date of receipt of Respondent's written demand.

WHEREFORE, based on the foregoing, the Commissioner of Insurance hereby notifies Respondent that **his license shall not be renewed** due to allegations of bogus business and forgery.

6-30-17

Date Signed



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Calla Dain, Insurance Investigator
Indiana Department of Insurance
311 West Washington St., Suite 103
Indianapolis, Indiana 46204-2787

Warren W. Dale.
2222 Ptarmigan Ln.
Colorado Springs, CO 80918