

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:16215-AG17-1206-224

IN THE MATTER OF:)

Kenneth Kavensky)
6011 Samstone Ct)
Blue Ash, OH 45242)

Respondent.)

Type of Agency Action: Enforcement)

Indiana Producer's License No. 942393)

FILED

DEC 21 2018

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On November 13, 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 Resident Producer License is AFFIRMED.

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 21 day of December, 2018.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Kenneth Kavensky
6011 Samstone Ct
Blue Ash, OH 45242

Erica Dobbs, 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: 16215-AG17-1206-224

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Kenneth Kavensky)
6011 Samstone Ct.)
Blue Ash, Ohio 45242)
)
Respondent.)
)
Type of Agency Action: Enforcement)
)
Indiana Producer's License No. 942393)

FILED

NOV 13 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, the Parties must object to the order in a writing that: 1) Identifies the basis for the 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: 11/13/18



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Kenneth Kavensky)
6011 Samstone Ct.)
Blue Ash, Ohio 45242)

Respondent.)

Type of Agency Action: Enforcement)

Indiana Producer's License No. 942393)

CAUSE NO.: 16215-AG17-1206-224

**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 Kenneth Kavensky ("Respondent"). This matter came on to be heard by the ALJ on October 4, 2018 at 10:00 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, Erica J. Dobbs. Respondent appeared in person and without counsel. Testimony 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 is a licensed Non Resident Insurance Producer holding License Number 942393 since March 27, 2014.
2. Respondent's License expired July 31, 2018.
3. Respondent was employed by ClaimLinx Insurance Agency and held an appointment with Humana Insurance Company ("Humana") from March 11, 2014 through March 29, 2017. (Department's Exhibit 1)
4. On or around March 31, 2017, the Department received notification from Humana that Respondent had been terminated for cause following an investigation regarding some documents submitted to the company. (Department's Exhibit 1)
5. Humana's investigation revealed two (2) clients for which fraudulent proof of a qualifying life event had been submitted to Humana under Respondent's agent identification number. (Department's Exhibit 2)
6. Specifically, Humana determined Respondent submitted letters claiming the clients had lost employer-sponsored group coverage on letterhead for a nonexistent company, forging a "company officer's" signature. (Department's Exhibit 3)
7. Dee Dee Davis confirmed to Humana's investigator that she is not a "company officer", and the signature on the letters which purports to be hers is not. (Department's Exhibit 3)
8. Respondent testified that he does not know the two clients at issue and that he did not submit applications or supporting documents on their behalf. (Hearing Transcript p. 11, 26)

9. Respondent testified that the documents must have been submitted by someone using his agent identification number and/or Humana log-in after he left ClaimLinx's employ on or about September 18, 2015. (Hearing Transcript p. 15, 17)
10. Respondent testified that the purpose of the agent identification number is for commission purposes to determine which agent is owed commission for each policy sold. (Hearing Transcript p. 38) It appears there is no value to anyone other than the agent to use this number.
11. Humana determined through their investigation that the applications had been submitted prior to September 18, 2015 and while Respondent was still employed by ClaimLinx (Department's Exhibit 2)
12. After the applications were denied due to the fraudulent supporting documentation, Respondent called Humana three (3) times inquiring whether "there are any repercussions. . .since we screwed up?" (Department's Exhibit 2, Hearing Transcript 29)
13. Humana also discovered two (2) applications for coverage for Respondent that contained false and inconsistent statements regarding his own prior coverage, including a falsified certification of group health care coverage. (Department's Exhibits 4,5 and 6)
14. An Individual Medical Insurance Application was submitted for Respondent on August 12, 2015 citing "loss of coverage" as the qualifying life event and including Respondent's e-signature as the "writing agent's signature". Department's Exhibit 4)
15. Certification of Group Health Care Coverage was submitted to Humana with Respondent's application. The Certification is dated August 1, 2015, and lists Respondent as a participant in the "Busy Bistro Catering LLC" Group. The plan administrator is listed as Robyn Pruitt. (Department's Exhibit 5)

16. Respondent testified that Busy Bistro Catering closed in 2011. (Hearing Transcript p. 30)
17. A second Individual Medical Insurance Application was submitted for Respondent on August 14, 2015, also citing "loss of coverage" as the qualifying life event; however, this application states the applicant does not have prior existing health coverage. This application also includes Respondent's e-signature as the "writing agent's signature". (Department's Exhibit 6)
18. Respondent testified that he did not complete or sign either of the applications submitted to Humana on his behalf. Respondent states he filled out a general application that was not company-specific and "one (1) or two (2) different people in the office could have" submitted the Humana application. (Hearing Transcript p. 30-31)
19. Respondent further testified he was not in the office when the applications were submitted, stating he left the office for vacation starting August 14 or August 15, 2015. (Hearing Transcript p. 32)
20. Respondent admitted three (3) exhibits at the hearing. Applicant's Exhibit A-C are all character reference letters. Applicant's Exhibit A is a letter from Respondent's Pastor, who is not one of his insurance clients. Applicant's Exhibit B is a letter from one of Respondent's closest friends. Applicant's Exhibit C is a letter from Robyn Pruitt who is a close friend of Respondent that worked with him at ClaimLinx, and is listed as the administrator on the Certification of Group Health Care Coverage admitted as Department's Exhibit 5.
21. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance (“Commissioner”) 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, in part, that the Commissioner may refuse to renew an Insurance Producer License, due to a number of factors.
4. Indiana Code 27-1-15.6-12(b)(8) 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. Respondent submitted fraudulent letters evidencing lost coverage for two clients, as well as two (2) applications and a Certificate of Group Coverage for himself containing untrue information.
6. Indiana Code 27-1-15.6-12(b)(10) allows the Commissioner to 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.
7. The two (2) fraudulent letters Respondent submitted showing lost group coverage for clients contained a forged signature for a “Company Officer”.
8. 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 Resident Producer License and, therefore, bears the burden.

9. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Respondent failed to meet his burden of proving the Commissioner's decision was unreasonable.
10. Findings of Fact that can be adopted as Conclusions 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. The refusal to renew Respondent's Resident Producer License be **AFFIRMED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 13th day of November 2018



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Kenneth Kavensky
6011 Samstone Ct.
Blue Ash, Ohio 45242

Erica J. Dobbs, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

STATE OF INDIANA)
) SS:
 COUNTY OF MARION)
 IN THE MATTER OF:)
)
 Kenneth Kavensky)
 6011 Samstone Ct)
 Blue Ash, OH 45242)
)
 Respondent.)
)
 Type of Agency Action: Enforcement)
)
 Indiana Producer's License No. 942393)

BEFORE THE INDIANA
 COMMISSIONER OF INSURANCE
 CAUSE NUMBER:16215-AG17-1206-224

FILED

NOV 01 2018

STATE OF INDIANA
 DEPT. OF INSURANCE

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

Administrative Law Judge (“ALJ”) Reuben Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Kenneth Kavensky (“Respondent”). This matter came to be heard by the ALJ on October 4, 2018 at 10:00 a.m. at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance (“Department”) was represented by counsel, Erica J. Dobbs. Respondent appeared in person and without counsel. Testimony 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 and Conclusions of Law, and issues his Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed nonresident insurance producer, holding license number 942393 since March 27, 2014.
2. Respondent’s license expired July 31, 2018.

3. Respondent was employed by ClaimLinx Insurance Agency and held an appointment with Humana Insurance Company (“Humana”) from March 11, 2014 through March 29, 2017. (Department’s Exhibit 1)

4. On or around March 31, 2017, the Department received notification from Humana that Respondent had been terminated for cause following an investigation regarding some documents submitted to the company. (Department’s Exhibit 1)

5. Humana’s investigation revealed two (2) clients for which fraudulent proof of a qualifying life event had been submitted to Humana under Respondent’s agent identification number. (Department’s Exhibit 2)

6. Specifically, Humana determined Respondent submitted letters claiming the clients had lost employer-sponsored group coverage on letterhead for a nonexistent company, forging a “company officer’s” signature. (Department’s Exhibit 3)

7. DeeDee Davis confirmed to Humana’s investigator that she is not a “company officer,” and the signature on the letters which purports to be hers is not. (Department’s Exhibit 3)

8. Respondent testified that he does not know the two clients at issue and that he did not submit applications or supporting documents on their behalf. (Hearing Transcript p. 11, 26)

9. Respondent testified that the documents must have been submitted by someone using his agent identification number and/or Humana log-in after he left ClaimLinx’s employ on or about September 18, 2015. (Hearing Transcript p. 15, 17)

10. Respondent testified that the purpose of the agent identification number is for commission purposes; i.e., to determine which agent is owed commission for each policy sold. (Hearing Transcript p. 38)

11. Humana determined through their investigation that the applications had been submitted prior to September 18, 2015 and while Respondent was still employed by ClaimLinx. (Department's Exhibit 2)

12. After the applications were denied due to the fraudulent supporting documentation, Respondent called Humana three (3) times inquiring whether "there are any repercussions...since we screwed up?" (Department's Exhibit 2; Hearing Transcript 29)

13. Humana also discovered two applications for coverage for Respondent that contained false and inconsistent statements regarding his own prior coverage, including a falsified certification of group health care coverage. (Department's Exhibits 4, 5 and 6)

14. An Individual Medical Insurance Application was submitted for Respondent on August 12, 2015 citing "loss of coverage" as the qualifying life event and including Respondent's e-signature as the "writing agent's signature." (Department's Exhibit 4)

15. Certification of Group Health Care Coverage was submitted to Humana with Respondent's application. The Certification is dated August 1, 2015, and lists Respondent as a participant in the "Busy Bistro Catering LLC" Group. The plan administrator is listed as Robyn Pruitt. (Department's Exhibit 5)

16. Respondent testified that Busy Bistro Catering closed in 2011. (Hearing Transcript p. 30)

17. A second Individual Medical Insurance Application was submitted for Respondent on August 14, 2015, also citing "loss of coverage" as the qualifying life event; however, this application states the applicant does not have prior existing health coverage. This application also includes Respondent's e-signature as the "writing agent's signature." (Department's Exhibit 6)

18. Respondent testified that he did not complete or sign either of the applications submitted to Humana on his behalf. Respondent states he filled out a general application that was not company-specific and “one or two different people in the office could have” submitted the Humana application. (Hearing Transcript p. 30-31)

19. Respondent further testified he was not in the office when the applications were submitted, stating he left the office for vacation starting August 14 or August 15, 2015. (Hearing Transcript p. 32)

20. Respondent admitted three (3) exhibits at the hearing. Applicant’s Exhibit A-C are all character reference letters. Applicant’s Exhibit A is a letter from Respondent’s Pastor, who is not one of his insurance clients. Applicant’s Exhibit B is a letter from one of Respondent’s closest friends. Applicant’s Exhibit C is a letter from Robyn Pruitt who is a close friend of Respondent’s, worked with him at ClaimLinx, and is listed as the administrator on the Certification of Group Health Care Coverage admitted as Department’s Exhibit 5.

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

CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance (“Commissioner”) 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, in part, that the Commissioner may refuse to renew an insurance producer’s license, due to a number of factors.

4. Indiana Code § 27-1-15.6-12(b)(8) allows the Commissioner to refuse to renew 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.

5. Respondent submitted fraudulent letters evidencing lost coverage for two clients, as well as two applications and a Certificate of Group Coverage for himself containing untrue information.

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

7. The two fraudulent letters Respondent submitted showing lost group coverage for clients contained a forged signature for a "company officer."

8. 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. Here, Respondent is requesting that the Department renew his resident producer license and, therefore, bears the burden.

9. Pursuant to Indiana Code § 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Respondent failed to meet his burden of proving the Commissioner's decision was unreasonable.

10. 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, the Administrative Law Judge now recommends to the Commissioner the following:

1. The refusal to renew Respondent's resident producer license shall be AFFIRMED.

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

Reuben Hill
Administrative Law Judge

Distribution:

Kenneth Kavensky
6011 Samstone Ct
Blue Ash, OH 45242

Erica J. Dobbs, 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 NO.: 16215-AG17-1206-224

IN THE MATTER OF:)

Kenneth Kavensky)
10755 Bentley Pass Lane)
Loveland, OH 45140)

Respondent.)

Type of Agency Action: Enforcement)

Indiana Producer's License No. 942393)

FILED

SEP 12 2018

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF HEARING

Notice is hereby given, pursuant to Indiana Code § 4-21.5-3 *et seq.*, that an evidentiary hearing will be held on October 4, 2018, at 10:00 Eastern Time at 311 West Washington Street, Suite 103, Indianapolis, Indiana 46204-2787, to determine whether to grant Respondent's request for renewal of his nonresident producer's license.

The hearing will be conducted in accordance with the provisions of the Administrative Orders and Procedures Act, codified at Indiana Code § 4-21.5-3 *et seq.* The Commissioner's authority regarding agent licensing is contained in Indiana Code § 27-1-15.6-12(b).

The issues to be resolved at the hearing are those described in the Administrative Order Notice of Nonrenewal of Licensure filed on July 13, 2018.

The Indiana Department of Insurance asserts that Respondent has violated Indiana Code §§ 27-1-15.6-12(b)(8) and 27-1-15.6-12(b)(10), for using dishonest practices in the conduct of business and forging another person's name to a document related to an insurance transaction.

In accordance with Indiana Code § 27-1-15.6-34, the Administrative Law Judge in this matter is:

Reuben B. Hill

Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: (317) 232-2387

The Department of Insurance will be represented by its counsel, Erica J. Dobbs, who can be reached at:

Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: (317) 234-5887

A party who fails to attend or participate in a pre-hearing conference, hearing or other later stage of the proceeding, may be held in default or have a proceeding dismissed under Indiana Code § 4-21.5-3-24.

Dated:

9/12/18

Reuben B. Hill

Administrative Law Judge
Indiana Department of Insurance

Distribution:

Erica J. Dobbs, Attorney
ATTN: Melissa Higgins, Sr. Insurance Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204-2787

Kenneth Kavensky
10755 Bentley Pass Lane
Loveland, OH 45140

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:16215-AG17-1206-224

IN THE MATTER OF:)

Kenneth Kavensky)
6011 Samstone Ct)
Blue Ash, OH 45242)

Respondent.)

Type of Agency Action: Enforcement)

Indiana Producer's License No. 942393)

FILED

JUL 13 2018

**STATE OF INDIANA
DEPT. OF INSURANCE**

ADMINISTRATIVE ORDER
NOTICE OF NONRENEWAL OF LICENSE

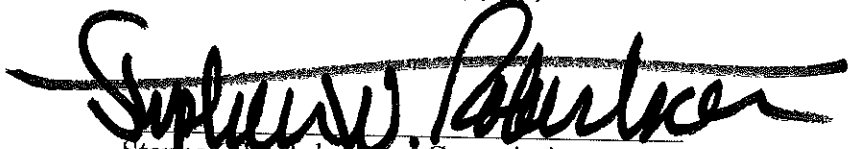
The Indiana Department of Insurance (“Department”), pursuant to Indiana Code § 4-21.5 *et seq.*, and Indiana Code § 27-1-15.6-12, hereby gives notice to Kenneth Kavensky, (“Respondent”) of the following Administrative Order:

1. Respondent is a licensed nonresident insurance producer holding license number 942393 since March 27, 2014.
2. Respondent’s license will expire on July 31, 2018.
3. On or around March 31, 2017, the Department was notified by Humana Insurance Company (“Humana”) that Respondent had been terminated for cause for allegations that he was engaged in fraudulent or dishonest practices.
4. Humana identified Respondent as submitting fraudulent proof of a qualified life event for two (2) clients to Humana. Specifically, Respondent submitted letters claiming the clients had lost employer sponsored group coverage on letterhead for a nonexistent company, forging a “company officer’s” signature.

5. It was further discovered that Respondent had made false statements regarding his own prior coverage on an application for himself for health insurance with Humana.
6. Indiana Code § 27-1-15.6-12(b)(8) provides, in part, that the Commissioner may refuse to renew 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.
7. Indiana Code § 27-1-15.6-12(b)(10) provides, in part, that the Commissioner may refuse to renew an insurance producer's license for forging another's name to an application for insurance or to any document related to an insurance transaction.
8. 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** for being terminated for cause for dishonest practices in violation of Indiana Code §§ 27-1-15.6-12(b)(8) and 27-1-15.6-12(b)(10).

July 13, 2018
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Erica J. Dobbs, Attorney
ATTN: Melissa Higgins, Insurance Investigator
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

Kenneth Kavensky
6011 Samstone Ct
Blue Ash, OH 45242