

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 15348-AG16-0809-153

IN THE MATTER OF:)
)
Jeffrey A. Schumaker)
Respondent)
)
3229 Olympia Dr Ste E)
Lafayette, IN 47909)
)
Type of Agency Action: Enforcement)
)
)
Indiana Insurance License No: 1076130)

FILED

JAN 29 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

The Enforcement Division of the Indiana Department of Insurance (“Department”), by its counsel, Erica J. Dobbs, and Jeffrey A. Schumaker (“Respondent”), a resident insurance producer licensed to do business in Indiana, signed an Agreed Entry which purports to resolve all issues involved in the above-captioned cause number, and which has been submitted to the Commissioner of Insurance (the “Commissioner”) for approval.

The Commissioner, after reviewing the Agreed Entry, which vacates the Department’s August 12, 2016 Nonrenewal Order, suspends Respondent’s license from July 1, 2016 through December 31, 2018, levies a two thousand dollar (\$2000) civil penalty against Respondent, and allows Respondent to apply for renewal of his license upon submitting a properly completed application and proof of completion of the statutorily required Continuing Education credits, for having failed to timely report a 2014 permanent bar by the Financial Industry Regulatory Authority (“FINRA”), finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Commissioner hereby incorporates the Agreed Entry

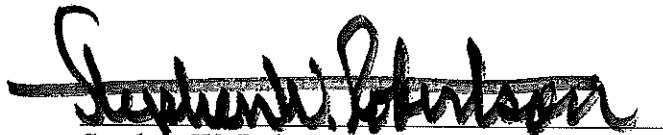
as if fully set forth herein, and approves and adopts in full the Agreed Entry as a resolution of this matter.

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Nonrenewal Order entered against Respondent on August 12, 2016 is hereby VACATED and Respondent's June 10, 2016 renewal application is approved.
2. Respondent's license shall be SUSPENDED from July 1, 2016, through and including December 31, 2018.
3. Upon the expiration of the period of suspension, Respondent may seek renewal of his license by submitting a properly completed reinstatement application to the Department, together with a forty dollar (\$40) renewal fee and proof of completion for twenty-four (24) hours of Continuing Education credits, including three (3) hours of Ethics training, as required by Indiana Code § 27-1-15.7-2(a).
4. Respondent shall pay a civil penalty of two thousand dollars (\$2000) to the Department within thirty (30) days of this Order.

1-29-2019

Dated



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Jeffrey Schumaker, Respondent
c/o Arend Abel, Counsel for Respondent
COHEN AND MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, Indiana 46204

Erica J. Dobbs
ATTN: Dennis Wood, Supervising Investigator
INDIANA DEPARTMENT OF INSURANCE
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204

STATE OF INDIANA)
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BEFORE THE INDIANA
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CAUSE NO.: 15348-AG16-0809-153

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Indiana Insurance License No: 1076130)

FILED

JAN 29 2019

STATE OF INDIANA
DEPT. OF INSURANCE

AGREED ENTRY

This Agreed Entry is executed by and between the Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Erica J. Dobbs, and Jeffrey A. Schumaker ("Respondent"), to resolve all issues in the above-captioned cause number. This Agreed Entry is subject to the review and approval of Stephen W. Robertson, Commissioner of the Indiana Department of Insurance ("Commissioner").

WHEREAS, Respondent was a licensed resident insurance producer, holding license number 1076130 since January 21, 1990;

WHEREAS, on or about June 10, 2016, Respondent submitted an application for license renewal to the Department;

WHEREAS, on said application, Respondent disclosed a September 22, 2014 securities license suspension and December 2, 2014 permanent bar by the Financial Industry Regulatory Authority ("FINRA");

WHEREAS, Indiana Code § 27-1-15.6-12(b)(2)(A) states, in part, that the Commissioner may suspend an insurance producer's license for violating an insurance law;

WHEREAS, Respondent's conduct is a violation of Indiana Code § 27-1-15.6-17(a), which states, in part, that a producer shall report to the Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter; and

WHEREAS, the Department and Respondent (collectively, the "Parties") desire to resolve this matter without the necessity of a hearing.

IT IS, THEREFORE, NOW AGREED by and between the Parties as follows:

1. The Commissioner has jurisdiction over the subject matter and the Parties to this Agreed Entry.
2. Respondent acknowledges that he executes this Agreed Entry with full realization of its contents and effects.
3. This Agreed Entry is executed knowingly, voluntarily, and freely by the Parties. The Parties agree that the terms of this Agreed Entry constitute final resolution of this matter.
4. Respondent knowingly, voluntarily and freely waives the right to further judicial review of this matter or to otherwise appeal or challenge the validity of this Agreed Entry.
5. Respondent knowingly, voluntarily, and freely waives, releases, and forever discharges all claims or challenges, known or unknown, against the Department, its Commissioner, employees, agents, and representatives, in their individual and official capacities, that arise out of or are related to the Agreed Entry or Final Order, including but not limited to

any act or omission as part of the underlying audit, investigation, negotiation, or approval process.


6. The Department shall vacate the Order of Nonrenewal entered against Respondent on August 12, 2016.
7. Respondent's June 10, 2016 license renewal application shall be approved, but Respondent's license shall be suspended from July 1, 2016 through and including December 31, 2018.
8. Upon the expiration of the period of suspension, Respondent shall be eligible to seek renewal of his license by submitting a properly completed reinstatement application to the Department, together with a forty dollar (\$40) renewal fee and proof of completion for twenty-four (24) hours of Continuing Education credits, including three (3) hours of Ethics training, as required by Indiana Code § 27-1-15.7-2(a).
9. Respondent shall pay a civil penalty of two thousand dollars (\$2000) to the Department within thirty (30) days of the Final Order adopting this Agreed Entry.
10. Respondent has carefully read and examined this Agreed Entry and fully understands its terms.
11. Respondent has had the opportunity to have this Agreed Entry reviewed by legal counsel of his choosing, at his own expense, and is aware of the benefits gained and obligations incurred by the execution of this Agreed Entry. Respondent understands and agrees that the Department cannot give him legal advice.
12. Respondent has entered into this Agreed Entry knowingly, voluntarily, and freely, and has not been subject to duress, coercion, threat, or undue influence.

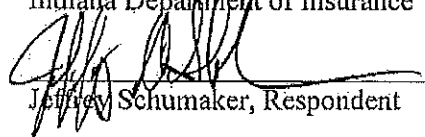
13. This Agreed Entry constitutes the entire agreement between the Parties, and no other promises or agreements, express or implied, have been made by the Department or by any employee, director, agent or other representative thereof to induce Respondent to enter this Agreed Entry.
14. The Department agrees to accept Respondent's compliance with the terms of this Agreed Entry as full satisfaction of this matter, and warrants and represents that so long as Respondent complies with the terms of this Agreed Entry, the Department will not take any further action against Respondent based on the facts that gave rise to this Agreed Entry.
15. In the event the Department finds there has been a breach of any of the provisions of this Agreed Entry, the Department may reopen this matter and pursue alternative action pursuant to Indiana Code § 27-1-15.6-12.
16. Respondent waives any applicable statute of limitations for purposes of any enforcement of the terms and conditions of this Agreed Entry.
17. Respondent acknowledges that this Agreed Entry may be admitted into evidence in any judicial or administrative proceeding against Respondent to enforce the terms and conditions contained herein.
18. Respondent understands that this Agreed Entry resolves only the matter pending with the Department and does not affect any criminal prosecution or civil litigation that may be pending or hereinafter commence against Respondent.
19. Except as provided herein, this Agreed Entry does not in any way affect the Department's authority in future audits, investigations, examinations, negotiations, or other complaints involving Respondent.

20. It is expressly understood that this Agreed Entry is subject to the Commissioner's acceptance and has no force or effect until such acceptance is evidenced by the entry of a Final Order by the Commissioner.
21. Should this Agreed Entry not be accepted by the Commissioner, it is agreed that presentation to, and consideration of this Agreed Entry by the Commissioner, shall not prejudice the Commissioner or Respondent from further participation in or resolution of these proceedings.
22. If this Agreed Entry is accepted by the Commissioner, it will become part of Respondent's permanent record and may be considered in future actions brought by the Department against Respondent if Respondent commits additional violations of insurance laws, except that neither this Agreed Entry nor the underlying facts in this matter may be used by the Department as a basis to deny renewal or reinstatement under paragraph 8. It is further understood that, if accepted by the Commissioner, this Agreed Entry and resulting Final Order are public records pursuant to Indiana Code § 4-21.5-3-32 that may not be sealed or otherwise withheld from the public, and may be reported to the National Association of Insurance Commissioners and published on the Department's website as required.
23. Respondent acknowledges that this is an Administrative Action he may be required to report to other jurisdictions in which he is licensed and on future licensing applications.

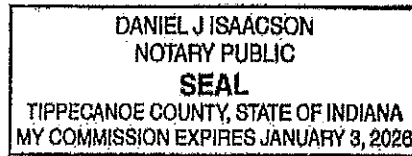
1/28/19
Date Signed

1-22-2019
Date Signed


Erica J. Dobbs, Attorney #30588-49
Indiana Department of Insurance


Jeffrey Schumaker, Respondent

STATE OF INDIANA)
)
COUNTY OF Tippicanoe) SS:



Before me a Notary Public for Tippicanoe County, State of Indiana,
personally appeared Jeffrey Schumaker, and being first duly sworn by me upon his oath, says
that the facts alleged in the foregoing instrument are true.

Signed and sealed this 22nd day of January, 2019.

Daniel Isaacson - RB
Signature

Daniel Isaacson - RB
Printed

My Commission expires: 01/03/2028

County of Residence: Tippicanoe

Return executed originals to:
INDIANA DEPARTMENT OF INSURANCE
Enforcement Division, Suite 103
311 West Washington Street
Indianapolis, IN 46204-2787
317/234-5883 - telephone
317/234-5882 - facsimile

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 15348-AG16-0809-153

IN THE MATTER OF:)

Jeffrey A. Schumaker)
3229 Olympia Dr., Suite E)
Lafayette, IN 47909)

Respondent.)

FILED

FEB 20 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

Commissioner Stephen W. Robertson, being advised of the matter, and having reviewed the Administrative Law Judge’s (“ALJ”) Findings of Fact, Conclusions of Law, and Recommended Order (the “Recommended Order”), plus the Indiana Department of Insurance’s (the “Department’s”) Objection to the Recommended Order and both parties’ subsequent filings in response to the Objection, now issues the following Findings of Fact, Conclusions of Law, and Final Order.

FINDINGS OF FACT

1. On September 14, 2016, a hearing was held at the Department to determine whether the Notice of Nonrenewal of License concerning Jeffrey A. Schumaker’s (the “Respondent’s”) insurance producer license was reasonable.
2. The ALJ’s Recommended Order was filed on November 7, 2016.
3. The Recommended Order held that the Department’s nonrenewal of Schumaker’s license be reversed and a producer’s license be issued to Respondent under the following conditions:

- a. Applicant's independent adjuster license¹ shall be granted on a **two year probationary basis**, during which time, Applicant shall adhere to all insurance laws or the Department will seek immediate revocation of his license.
 - b. Applicant shall pay the sum of **One Thousand Dollars (\$1,000.00)** as a civil penalty in accordance with Indiana Code 27-1-28-18(e).²
4. On November 23, 2016, the Department filed an objection to the Recommended Order.
 5. The Department's objection challenged, in relevant part, the ALJ's Conclusions of Law relating to Indiana Code § 27-1-15.6-12(b) (8 and the Finding of Fact stating Respondent paid interest.
 6. On December 7, 2016, the Respondent filed a Response to the Department's Objection to the Recommended Order addressing the interpretation of Indiana Code § 27-1-15.6-12(b)(8) and the Department's challenge to the Findings of Fact.
 7. On December 20, 2016 the Department filed a Reply to the Response to Objection to the Recommended Order clarifying the Department's position.
 8. Procedural History paragraphs 1 through 17 and Findings of Fact numbers 1-2 and 4-22 in the Recommended Order are adopted in full and incorporated herein as Findings of Fact.

¹ This is a scrivener's error. The Respondent is not being granted an independent adjusters license. Respondent is being granted a producer license.

² The correct citation for issuing a civil penalty against an insurance producer is Ind. Code § 27-1-15.6-12(b), not Ind. Code 27-1-28-18(e). This is another instance of scrivener's error.

9. Finding of Fact number 3 is replaced with the following:

Respondent repaid the money taken from the homeowner's association back along with two years of past association dues and one year of future dues. [Transcript at page 43, lines 8-18.]

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

CONCLUSIONS OF LAW

11. The Commissioner adopts the ALJ's Conclusions of Law numbers 1 through 7
10.

12. The term "in the conduct of business in Indiana or elsewhere," when used in Ind. Code §27-1-15.6-12(b)(8), should not be read in conjunction with the terms "fraudulent, coercive, or dishonest practices." Ind. Code §27-1-15.6-12(b)(8) provides the Commissioner the authority to take administrative action when a producer uses fraudulent, coercive, or dishonest practices in any event, whether in the conduct of business in Indiana or not.

13. Respondent has violated Ind. Code §27-1-15.6-12(b)(1) and Ind. Code §27-1-15.6-12(b)(8).

14. The appropriate penalty for such a violation is refusal to renew the license.

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

FINAL ORDER

IT IS THEREFORE ORDERED:

Applicant's insurance producer license shall not be renewed.

ALL OF WHICH IS ORDERED by the Commissioner this 20th day of February 2017.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Anne L. Cowgur
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Cathleen Nine-Altevogt, Attorney
INDIANA DEPARTMENT OF INSURANCE
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Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO. 15348-AG16-0809-153

IN THE MATTER OF)
INSURANCE PRODUCER:)

Jeffrey A. Schumaker)
3229 Olympia Drive, Suite E)
Lafayette, IN 47909)

FILED

NOV 23 2016

STATE OF INDIANA
DEPT. OF INSURANCE

**MOTION TO CORRECT SCRIVENER'S ERROR
AND TO CLARIFY RECOMMENDED ORDER**

Jeffrey A. Schumaker, by counsel, respectfully requests correction of a scrivener's error in the November 5, 2016 Recommended Order and clarification concerning the recommended renewal and states:

1. In the November 5 Order, the Administrative Law Judge recommended that the "Applicant's independent adjuster's license shall be granted on a **two year probationary basis** . . ." and that the "Applicant shall pay the sum of **One Thousand Dollars (\$1,000.00)** civil penalty in accordance with Indiana Code 27-1-28-18(c)."

2. As recognized elsewhere in the Order, Jeffrey Schumaker seeks renewal of his producer's license. [Findings of Fact, Conclusions of Law and Order, at 1, 2, 4, 7.]

3. In light of the Order as a whole, it is clear that the Order intended to recommend the grant of Schumaker's request for renewal of his producer's license.

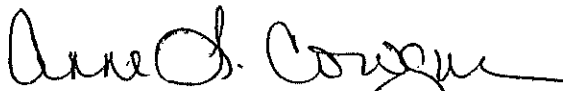
4. Furthermore, the applicable statute for payment of a penalty should have been made pursuant to Indiana Code section 27-1-15.6-12(f).

5. Finally, insofar as the Recommended Order recommends that the "order of nonrenewal be reversed," Schumaker respectfully requests that the Recommended Order be

clarified to note that the recommended grant of the license is retroactive to the date of the June 30, 2016 expiration of his license, which occurred while his application was pending.

WHEREFORE, Schumaker respectfully requests be amended to correct the above-described scrivener errors and to clarify the terms of the renewal.

Respectfully submitted,



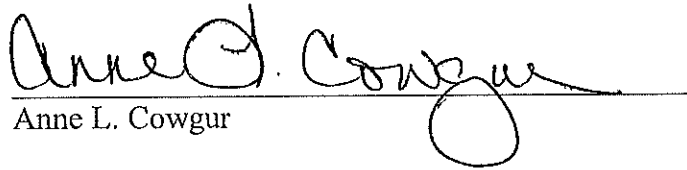
Anne L. Cowgur, #21584-40
TAFT STETTINIUS & HOLLISTER LLP
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Indianapolis, Indiana 46204
Phone: 317-713-3500
Fax: 317-713-3699
acowgur@taflaw.com

Attorney for Jeffrey A. Schumaker

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by electronic mail this 23rd day of November, 2016, to the following:

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


Anne L. Cowgur

TAFT STETTINIUS & HOLLISTER LLP
One Indiana Square
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Indianapolis, Indiana 46204
Phone: 317-713-3500
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acowgur@taftlaw.com

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NO. 15348-AG16-0809-153

IN THE MATTER OF)
INSURANCE PRODUCER:)

Jeffrey A. Schumaker)
3229 Olympia Drive, Suite E)
Lafayette, IN 47909)

FILED

NOV 07 2016

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.



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO. 15348-AG16-0809-153

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INSURANCE PRODUCER:)

Jeffrey A. Schumaker)
3229 Olympia Drive, Suite E)
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FILED

NOV 07 2016

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

JURISDICTION

An evidentiary hearing was held under and in accordance with the Administrative Orders and Procedures Act, Indiana Code section 4-12.5-3-20, and pursuant to the Notice of Hearing dated August 24, 2016. The stated purpose for the hearing as stated in the August 24 Notice was “to determine whether to grant Respondent’s request for the renewal of his resident producer’s license.” The Commissioner’s authority to grant or deny an insurance producer’s license application and/or to apply conditions on the grant of renewal of such license is contained in Indiana Code section 27-1-15.6.12(b).

ISSUE & SUMMARY OF CONCLUSION

This matter is before the Administrative Law Judge upon an appeal by Jeffrey A. Schumaker (“Schumaker”) of the denial of his producer’s license renewal. The issues to be resolved are those described in the August 24 Notice of Hearing.

The Indiana Department of Insurance (“IDOI”) denied Schumaker’s application for renewal of his license on grounds that Schumaker is “in violation of an insurance law”. Ind. Code § 27-1-15.6-12(b)(2)(A). Specifically, the IDOI alleges (1) that Schumaker failed to timely disclose his Financial Industry Regulatory Authority suspension and permanent bar to the Department, in violation of Indiana Code section 27-15.6-17(a) and (2) that Schumaker’s disclosed misappropriation of funds from his neighborhood homeowners association while serving as its treasurer is a violation of Indiana Code section 27-1-15.6-12(b)(8).

Schumaker sought review of the denial of his renewal application on grounds that: (1) any failure to comply with disclosure requirements related to the FINRA bar was inadvertent, (2) he voluntarily repaid and disclosed his personal use of homeowners association funds on his own accord and the underlying act did not occur “in the conduct of business in Indiana or elsewhere,” and (3) while he appreciates that what he did in 2011 when he used the funds for his personal use

was wrong, it is an aberration resulting from extreme circumstances not likely to recur and had no relationship to his blemish-free, 26-year record in providing services pursuant to his Indiana insurance producer's license. Schumaker further argues that is arbitrary and capricious to refuse to renew his insurance producer's based on the FINRA action where FINRA association is not a requirement for licensure.

The Administrative Law Judge has carefully reviewed the testimony presented at the hearings, all evidence and the applicable statutes in regard to this matter.

The following Findings of Fact and Conclusions of Law¹ constitute the bases for the final determination by this Administrative Law Judge.

PROCEDURAL HISTORY

1. Schumaker concentrates his business in life and health insurance, disability and Medicare supplement insurance. He has held an Indiana life and health producer's license for 26 years, since 1990. He provides service to about 300 customers. [Schumaker Ex. 1.]²

2. On or about June 10, 2016, Schumaker submitted to the IDOI, his License Renewal Application for his Individual Resident Producer's License.

3. Question 2 of the license renewal application inquires:

Have you been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?

"Involved" means having a license censured, suspended, revoked, canceled, terminated, or, being assessed a fine, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. "Involved" also means having a license, or registration, application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

¹ Findings of Fact that may be construed as Conclusions of Law, and Conclusions of Law that may be construed as Findings of Fact shall be so deemed.

² Evidentiary references are intended to be illustrative and not exhaustive. Where no specific citation is given the factual finding is based upon record documents, undisputed facts or the Administrative Law Judge's observations of the evidence and proceedings overall.

If you answer yes, you must attach to this application:

- a) a written statement identifying the type of license and explaining the circumstances of each incident,
- b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
- c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.³

Schumaker answered Question 2 in the affirmative and supplied the required materials and disclosures. [Schumaker Ex. 1.]

4. Schumaker disclosed that:

In 2011, as the treasurer of my neighborhood homeowners association I misappropriated funds for personal use. Before my actions were discovered by any other person, I repaid all the funds with interest and disclosed to everyone involved what I had done. I also disclosed to my broker dealer what had happened who reported it to FINRA. The FINRA enforcement attorneys were very aggressive and informed my counsel that despite my full cooperation with their investigation, it was highly likely I would be barred from associating with FINRA members as a result. Based on our review of a number relevant enforcement decision it appeared that there was little chance that I would receive anything less than a permanent bar, so I decided not to participate in the (expensive) investigation. My bar was due to my declining to participate further in the investigation given what appeared to be a pre-determined outcome.

[Schumaker Ex. 1.]

5. In connection with this disclosure, Schumaker also provided a letter to the IDOI further describing his voluntary repayment and disclosures, his family circumstances and the nature of his business. [Schumaker Ex. 1.]

6. Schumaker's Indiana producer's license expired on June 30, 2016, while his application was pending. [Administrative Order – Notice of Nonrenewal, ¶ 2.]

7. On August 12, 2016, the IDOI gave notice by way of an "Administrative Order – Notice of Nonrenewal of License" that Schumaker's license would not be renewed.

³ Although not introduced by either party as an exhibit, the Administrative Law Judge can take judicial notice of the contents of IDOI's online application for renewal of a producer's license that led to the issuance of the Notice of Nonrenewal in this matter.

8. Indiana Code section 27-1-15.6-12(d) requires the Commissioner to notify a licensee of the reason for the nonrenewal of his license. The aforementioned Notice of Nonrenewal of License served as such notice.

9. The notice indicated that the reason for non-renewal was:

a. violation of an insurance law, citing Indiana Code section 27-1-15.6-12(b)(2)(A);

b. failure to timely report to the Commissioner administrative action taken against the producer in another jurisdiction within 30 days after the final disposition of the matter; and

c. violation of Indiana Code section 27-1-15.6-12(b)(8) which provides that a producer shall not use fraudulent, coercive, or dishonest practices, or demonstrate incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

10. Consistent with AOPA, the Commissioner notified Schumaker that he may make a written demand on the Commissioner for a hearing to determine the reasonableness of the non-renewal action.

11. Schumaker made a timely written demand for hearing.

12. On August 24, 2016, a Notice of Hearing was issued. That Notice provided that a hearing would be held on September 14, 2016 at 10:00 a.m. at 311 West Washington Street, Suite 103, Indianapolis, Indiana, "to determine whether to grant Respondent's request for the renewal of his resident producer's license."

13. The scheduled hearing was held. At the hearing Schumaker appeared in person and by counsel Anne Cowgur of Taft, Stettinius & Hollister. IDOI appeared by Calla Dain and by counsel Cathleen Nine-Altevogt.

14. Testimony was heard from the following witnesses on behalf of Schumaker:

- a. Jeffrey Schumaker
- b. William Novack; and
- c. Nancy Schumaker.

15. Testimony was heard from Calla Dain on behalf of IDOI.

16. The following Exhibits were admitted at the administrative hearing:

- a. Schumaker's Exhibit 1, Letter and Response to Question No. 2
- b. Schumaker's Exhibit 2, Email from Tom Mack
- c. Schumaker's Exhibit 3, Transamerica July 22, 2013 letter regarding audit
- d. Schumaker's Exhibit 4, Transamerica Field Office Review Worksheet
- e. Schumaker's Exhibit 5, Check register showing repayment of funds

- f. Schumaker's Exhibit 6, Letter from Michael L. Thomas
- g. IDOI Exhibit A, April 25, 2016 Letter from Lincoln Financial
- h. IDOI Exhibit B, September 22, 2014 Letter from S. Harris, FINRA
- i. IDOI Exhibit C, December 2, 2014 Letter from S. Harris, FINRA
- j. IDOI Exhibit D. FINRA Report Summary for Jeffrey A. Schumaker

17. At the close of the hearing, counsel for the parties were given 15 days, or to and including September 29, 2016, to submit Proposed Findings of Fact, Conclusions of Law and Orders. And, each party's counsel did timely submit the Proposed Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. In 2011, as treasurer of the neighborhood homeowner's association, Schumaker misappropriated \$8300 in homeowner's association funds for his own use.

2. At the relevant time, Schumaker was experiencing significant personal issues. At a school sporting event on a rainy evening, two young girls ran out in front of his car and because one stopped and the other ran, Schumaker could not avoid hitting one of them, injuring her. The event took a heavy emotional toll on Schumaker and his family. It affected his productivity in sales. In addition to the huge emotional turmoil this brought Schumaker and his family, he incurred expenses related to being sued in connection with the incident. During this period Schumaker was expecting a substantial commission check and wrote an equally substantial check in payment for a medical bill. When the commission check did not arrive, Schumaker turned to the homeowner's association funds. [Schumaker Testimony.]

3. In 2014, the homeowners' association had bills coming due for which funds were needed. At that point, Schumaker returned the funds he had taken. He deposited an amount of \$9000, which includes the \$8300, a modest amount of interest Schumaker calculated to be approximately what would have been earned on that amount during the time the funds were not in the account, and his own dues. He thereafter disclosed what he had done and how he had corrected it to the neighborhood association. [Schumaker Testimony.]

4. The homeowners' association learned of Schumaker's actions only when he disclosed what he had done. Schumaker resigned as treasurer at that time. [Schumaker Testimony.]

5. After hearing Schumaker's disclosures, the homeowners' association deliberated. They determined that due to his correction of the issue, his disclosure and his remorse, they would not pursue any criminal charges against him. [Schumaker Testimony.]

6. One of the homeowner association members was a former registered representative. She expressed concern that Schumaker should report the incident in connection with his broker/dealer license, and he complied with that request. [Schumaker Testimony.]

7. Schumaker's disclosure to his broker dealer led to a further disclosure to FINRA. [Schumaker Testimony.]

8. During FINRA's investigation, Schumaker learned that even if he were successful in avoiding being barred from association with FINRA, the process would be extremely expensive. He had heard from one individual who, between attorney's fees and fines, had incurred approximately \$100,000.00 in expense. [Schumaker Testimony.]

9. Based on these considerations, Schumaker suspended cooperation with the FINRA investigation.

10. In response to Question 2, of his application for renewal to IDOI Schumaker made a full and complete disclosure of the FINRA bar and the circumstances leading thereto. [Schumaker Exhibit 1.]

11. Schumaker's position as the treasurer of the homeowners' association was a volunteer position. It was not an elected or appointed position, but rather a function of the need for people to volunteer for various positions given the small size of the neighborhood. [Schumaker Testimony.]

12. In his insurance business, Schumaker does not handle any cash for insureds. All premiums are paid directly to the insurance company by the insured as required by anti-money laundering laws. The only funds Schumaker deals with in connection with his insurance business are his own commission checks from which he pays his own salary and his office expenses. [Schumaker Testimony.]

13. No evidence was presented that Schumaker has ever committed any conduct that is fraudulent, coercive, dishonest, incompetent, untrustworthy, or financially irresponsible in the conduct of his insurance business or any other business venture.

14. Schumaker presented evidence of his most recent Field Office Review Worksheet and a post-audit letter stating, "Congratulations! I would like to commend you on how well you have been managing the affairs of your branch office. I am pleased to inform you that there were no material exceptions found during the audit of your branch office. This is a great accomplishment and a direct reflection of your commitment to excellence." [Schumaker, Exhibit 3.]

15. Schumaker's friend and colleague William Novack took over servicing Schumaker's broker/dealer clients after Schumaker was not longer able to help them. Novack testified as to Schumaker's thoughtful and appropriate ways of serving his clients. Novack expressed respect and confidence in Schumaker's abilities. [Novack Testimony.]

16. Schumaker's wife also testified concerning Schumaker's character for honesty and how extremely out of character the actions of 2011 were for her husband. [N. Schumaker Testimony.]

17. Tom Mack, a neighbor of the Schumakers since 2004, who was among those who heard Schumaker's confession at the neighborhood meeting in 2014 testified by letter concerning

Schumaker's remorse at that time. He further stated: "I believe that Jeff is a very reliable, honest and kind person that had made a bad choice." [Schumaker Exhibit 2.]

18. Schumaker has a friendly and respectful demeanor, and has been cooperative with the IDOI and its representatives through the renewal and appeal process.

19. Schumaker is remorseful and humbled and has personally owned his mistake.

20. Schumaker has made changes to avoid the extreme financial pressures that led to his actions by establishing better financial and business practices in his office and maintaining a financial cushion. [Schumaker Testimony.]

21. Schumaker has made amends with those he wronged and has maintained the respect and friendship of neighbors and colleagues. [Schumaker Exhibit 2.]

22. Schumaker is the sole financial supporter for his family, which includes his wife, two sons in college, his mother-in-law who lives with him, and a young family member placed in their home by family services. The loss of his income would be devastating to the family. And, at age 53 with 26 years in the insurance industry, Schumaker does not know what he would do to replace that income. [Schumaker Testimony; N. Schumaker Testimony.]

CONCLUSIONS OF LAW

1. The Notice of Hearing in this matter indicated that an evidentiary hearing would be held on September 14, 2016 "to determine whether to grant Respondent's request for the renewal of his resident producer's license."

2. The Commissioner's authority to deny a renewal application for a producer's license is found in Indiana Code section 27-1-15.6-12(b). However, that authority also includes the ability to apply lesser sanctions such as a reprimand, a civil penalty, or probation.

3. The IDOI's stated reasons for the non-renewal decision were:

a. violation of an insurance law, Ind. Code § 27-1-15.6-12(b)(2)(A);

b. failure to timely report to the Commissioner administrative action taken against the producer in another jurisdiction within 30 days after the final disposition of the matter; and

c. violation of Indiana Code section 27-1-15.6-12(b)(8) which provides that producer shall not use fraudulent, coercive, or dishonest practices, or demonstrate incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

4. Indiana Code Section 27-1-15.6-17(a) provides:

A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another government agency in Indiana not more than thirty (30) days after the final disposition of the matter. The report shall include a copy of the order, consent to order, or other relevant legal documents.

5. Schumaker violated section 27-1-15.6-17 insofar as he did not report his December 2014 FINRA bar until his renewal application in June 2016.

6. Schumaker argued that section 27-1-15.6-12(b)(8) does not apply because it applies only to actions undertaken in the "conduct of business" whether they be "fraudulent, coercive or dishonest," or "incompeten[t], untrustworth[y] or financially irresponsib[le]."

7. The IDOI argues that the statute should be read in two parts: (a) "fraudulent, coercive, or dishonest practices" or (b) "demonstrate[d] incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere."

8. While serving as treasurer of his neighborhood association, the evidence in this case demonstrates that Schumaker took \$8300 from the homeowners' association bank account with the intent to repay it. While dishonest, all evidence presented at the hearing was that this was a singular issue, out of character for Schumaker, and not part of a pattern of deceit or a series of "practices" in either his personal or professional life.

9. Schumaker, engaged in dishonest activity when he converted \$8300 of his neighborhood association account to his own bank account for his personal use. In doing so, he violated the trust of his fellow neighbors and, as well, the trust that the IDOI placed in him when IDOI issued him a license to practice his profession.

10. In consideration of the foregoing, it would be entirely reasonable for the Commissioner to deny Schumaker an application for renewal of his producer's license. However, Schumaker presented himself to this hearing officer as a reasonable, competent, basically honest and responsible person. He had operated as a licensed producer in Indiana for almost a quarter century without a single complaint from his customers and fellow citizens. He is embarrassed, remorseful and humbled by this past two year experience. Mr. Schumaker is well settled as a husband and father, and is a respected member of the community with singular responsibilities for the financial welfare of his substantial family. He is also beholden to his neighbors (who have already forgiven him) and his friend who has placed his own reputation on him. Given the foregoing considerations, it would be reasonable for the Commissioner to issue Schumaker a Producer's License to on a probationary basis.

RECOMMENDED ORDER

In the consideration of Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends that the order of nonrenewal be reversed under the following conditions:

1. Applicant's independent adjuster's license shall be granted on a **two year probationary basis**, during which time, Applicant shall adhere to all insurance laws or the Department will seek immediate revocation of his license.
2. Applicant shall pay the sum of **One Thousand Dollars (\$1,000.00)** civil penalty in accordance with Indiana Code 27-1-28-18 (e).

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 5th day of November 2016.



Reuben B. Hill, Administrative Law Judge

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 15348-AG16-0809-153

IN THE MATTER OF:)
)
Jeffrey A. Schumaker)
Respondent)
)
3229 Olympia Dr Ste E)
Lafayette, IN 47909)
)
Type of Agency Action: Enforcement)
)
)
Indiana Insurance License No. 1076130)

FILED

AUG 12 2016

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 Jeffrey A. Schumaker, (“Respondent”) of the following Administrative Order:

1. Respondent, a resident of Indiana, is a licensed insurance producer holding license number 1076130 since January 20, 1990 (“Respondent’s license”).
2. Respondent’s license expired on June 30, 2016.
3. On or about June 10, 2016, the Enforcement Division of the Indiana Department of Insurance (“Enforcement Division”) received untimely notification from Respondent of his securities license suspension on September 22, 2014, and permanent bar on December 02, 2014 by the Financial Industry Regulatory Authority (“FINRA”).
4. Furthermore, Respondent disclosed that as the treasurer of his neighborhood homeowners association in 2011, he misappropriated funds for personal use.

5. Pursuant to Indiana Code §27-1-15.6-12(b)(2)(A), a producer shall not violate an insurance law.

6. Pursuant to Indiana Code §27-1-15.6-17(a), a producer shall report to the Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter.

7. Pursuant to Indiana Code §27-1-15.6-12(b)(8), a producer shall not use fraudulent, coercive, or dishonest practices, or demonstrate incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

8. 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.

9. 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 his failure to timely report his FINRA regulatory actions and for his misappropriation of funds.

8-12-14

Date Signed



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

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