

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO.: 17306-AG19-0207-018

IN THE MATTER OF: )  
 )  
Michael Robert Smith )  
1200 Sunset Street, )  
Middletown, OH 45042 )  
 )  
Respondent. )  
 )  
Type of Agency Action: Enforcement )  
 )  
License Number: 495456 )

**FILED**

OCT 04 2019

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

The Indiana Department of Insurance (“Department”), by counsel, Victoria Hastings, and Michael Robert Smith (“Respondent”), 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 (“Commissioner”) for approval.

The Commissioner, after reviewing the Agreed Entry, which places the Respondent’s nonresident producer license on probation for a period of one year due to Respondent’s termination for cause from American Family Mutual Insurance Company (“AmFam”) for submitting misleading invoices, which purported that Respondent had paid for advertisement and was owed reimbursement, 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.

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STATE OF INDIANA  
DEPT. OF INSURANCE

**AMENDED AGREED ENTRY**

This Agreed Entry is executed by and between the Enforcement Division of the Indiana Department of Insurance (“Department”), by counsel, Victoria Hastings, and Michael Robert Smith (“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, on June 19, 2006, Respondent was granted a resident producer’s license;

WHEREAS, on May 5, 2018, Respondent was terminated for cause from American Family Mutual Insurance Company (“AmFam”) and was subsequently alleged to have altered documents relating to advertising reimbursement in order to receive reimbursement money prior to paying the advertising bill;

WHEREAS, Indiana Code § 27-1-15.6-12(b)(8) states, in part, that the commissioner may place an insurance producer on probation for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere; 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. In order to avoid formal litigation in this matter, Respondent has determined that it is in his best interests to enter into this Agreed Entry. As such, 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 a public hearing on this matter, including the right to appear in person before the Commissioner, present evidence, cross-examine witnesses, and present arguments.
5. Respondent knowingly, voluntarily and freely waives the right to judicial review of this matter or otherwise appeal or challenge the validity of this Agreed Entry.
6. 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.

7. Respondent shall be placed on probation for a period of one year, beginning the date the Commissioner enters the Final Order adopting this Agreed Entry.
8. During the term of probation, any violations of Title 27 of the Indiana Code will result in the Department seeking immediate revocation of Respondent's license.
9. Respondent has carefully read and examined this Agreed Entry and fully understands its terms.
10. 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.
11. Respondent has entered into this Agreed Entry knowingly, voluntarily, and freely, and has not been subject to duress, coercion, threat, or undue influence.
12. 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.
13. 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 bring any further action against Respondent based on the facts that gave rise to this Agreed Entry.

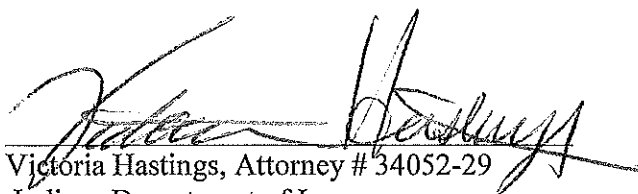
14. In the event the Department finds there has been a breach of any of the provisions of this Agreed Entry, the Department may reopen this matter and pursue alternative action pursuant to Indiana Code § 27-1-15.6-12.
15. Respondent waives any applicable statute of limitations for purposes of any enforcement of the terms and conditions of this Agreed Entry.
16. 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.
17. 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.
18. This Agreed Entry does not in any way affect the Department's authority in future audits, investigations, examinations, negotiations, or other complaints involving Respondent.
19. 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.
20. 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 unfairly or illegally prejudice the Commissioner or Respondent from further participation in or resolution of these proceedings.
21. 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 or any other regulator against Respondent. 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.

22. 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.

9/27/19

Date Signed



Victoria Hastings, Attorney # 34052-29  
Indiana Department of Insurance

9-18-19

Date Signed



Michael Robert Smith, Respondent

STATE OF OHIO )  
 ) SS:  
COUNTY OF OHIO )  
Butler ✓ )

Before me a Notary Public for Butler County, State of Ohio,  
personally appeared Michael Robert Smith, 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 18th day of September, 2019.

Samuel Cornwall  
Notary Signature

Samuel Cornwall  
Notary Printed

My Commission expires: 11/16/21  
County of Residence: Butler



Samuel Cornwall  
Notary Public, State of Ohio  
My Commission Expires  
November 16, 2021

**Return executed originals to:**  
INDIANA DEPARTMENT OF INSURANCE  
Enforcement Division, Suite 103  
311 West Washington Street  
Indianapolis, IN 46204-2787  
317/234-5885 - telephone  
317/234-2103-- facsimile