

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 17589-AG18-0911-142

IN THE MATTER OF:)

Deborah Sterling)
11344 Arborview Dr., Apt. 1702)
Indianapolis, IN 46236)

Applicant.)

Type of Agency Action: Enforcement)

License Application #: 666095)

FILED

AUG 16 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On June 18, 2019, the Administrative Law Judge ("ALJ"), Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. A hearing was held in this matter on January 23, 2019, for which Applicant appeared in person and by counsel, Michael Allen.
2. Pursuant to Indiana Code §§ 4-21.5-3-17(b) and 4-21.5-3-27, the Parties' Proposed Findings of Fact, Conclusions of Law, and Recommended Orders ("Proposed Orders") were due on or before February 22, 2019.
3. On February 22, 2019, without objection from the Department, Applicant's counsel filed a Motion for Extension of Time, and the same was granted allowing the Parties until March 22, 2019 to submit their Proposed Orders.
4. On March 22, 2019, the Department filed its Proposed Order.
5. On April 2, 2019, the ALJ's Clerk, called Applicant's Counsel at the ALJ's request and left a voicemail reminding Applicant's Counsel of the March 22, 2019 due date.

6. On April 5, 2019, Mr. Roger Brummett returned the call, stating he was Applicant's Counsel's Power of Attorney, and Applicant's Counsel had passed away on April 1, 2019. Mr. Brummett advised that Attorney Adam Davis would reach out to Applicant to arrange alternate counsel in light of the untimely passing of Applicant's former counsel.
7. The ALJ granted Applicant an additional thirty (30) days, through and including May 6, 2019, to retain new counsel and file her Proposed Order. Mr. Brummett was advised of this extension.
8. No Proposed Order was ever filed by or on behalf of Applicant.
9. The ALJ entered his Recommended Order on June 18, 2019, and attempted to serve the same on Applicant by mailing it to Applicant c/o Michael Allen at 1 South Rangeline Road, Suite 400, Carmel, IN 46032.
10. Applicant's copy of the Recommended Order was returned to the Department by the United States Postal Service marked "Not Deliverable as Addressed, Unable to Forward" on July 30, 2019.
11. Neither Party has submitted an objection to the ALJ's Recommended Order.
12. The ultimate authority shall issue a final order affirming, modifying, or dissolving the administrative law judge's order per Indiana Code § 4-21.5-3-29.

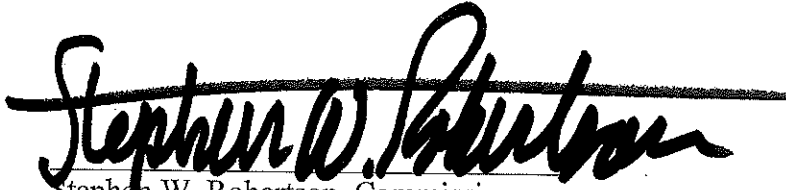
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. That the denial of Applicant's resident producer license is AFFIRMED.

Under Indiana Code § 4-21.5-5-5, Applicant 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 16 day of August, 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

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Erica J. Dobbs, Attorney
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STATE OF INDIANA)
) SS:
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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 17589-AG18-0911-142

IN THE MATTER OF:

Deborah Sterling
11344 Arborview Dr., Apt. 1702
Indianapolis, Indiana 46236

Respondent.

Type of Agency Action: Enforcement

License Application Number: 666095

FILED

JUN 18 2019

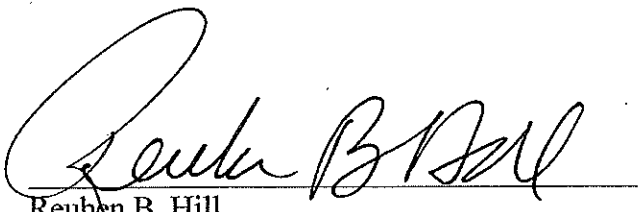
STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's
Recommended Order is 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: 18 June 2019


Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Deborah Sterling)
11344 Arborview Dr., Apt. 1702)
Indianapolis, Indiana 46236)

Applicant.)

Type of Agency Action: Enforcement)

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CAUSE NO.: 17589-AG18-0911-142

FILED

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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, now renders a decision concerning the matter of Deborah Sterling ("Applicant"). This matter came on to be heard by the ALJ on January 23, 2019 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. Applicant appeared in person and by counsel, Michael Allen. Testimony was heard, and exhibits were received into evidence.

On February 26, 2019, the ALJ granted Applicant's Motion for Extension of Time to Submit Proposed Findings and Order, to which the Department did not object, granting the parties through March 22, 2019 to file their respective Proposed Orders.

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

FINDINGS OF FACT

1. Applicant applied for a Resident Producer License on or about August 13, 2018.
(Hearing Transcript, 48)
2. On her application, Applicant disclosed that she previously held a real estate appraiser license in Indiana and Florida, both of which have been subject to administrative adjudications. (Hearing Transcript, p.48-49)
3. Applicant owned Sterling Realtors and Appraisers in Fort Wayne, Indiana, from January 1, 2000 through December 31, 2006. (Department's Exhibit 6, Hearing Transcript, p. 53)
4. During that time, Applicant trained five (5) trainees. Applicant testified that Real Estate Appraisers are required to complete three hundred thirty-three (333) appraisals with supervision before they are qualified to complete appraisals on their own. (Hearing Transcript p. 60, 12)
5. Applicant testified that the computer system she used in her business was designed to generate the trainee's signature and Applicant's signature on completed appraisals.
(Hearing Transcript, p. 17-18)
6. On November 9, 2006, the Indiana Attorney General filed a complaint against Applicant ("Complaint") with the Indiana Real Estate Appraiser Licensure and Certification Board ("Board") and mailed the complaint to Applicant's address of record with the Board.

(Department's Exhibits 2 and 3)

7. On December 14, 2006, a hearing was held before the Board. Applicant failed to appear for the hearing. (Department's Exhibit 3)
8. Applicant testified that she failed to appear because she was unaware of the hearing, as she was living in Florida in November 2006 when the complaint was filed and didn't receive notice. (Hearing Transcript, p. 29-31)
9. Applicant further testified that she did not stop doing appraisals in Indiana until December 2006. (Hearing Transcript, p. 53)
10. The Board examined three (3) appraisals (the "Subject Appraisals") completed by Applicant and her trainee, Glenn Howard, in 2001 as compared to appraisals of the same properties completed by other appraisers in 2006. For each of the Subject Appraisals, the Board determined that Applicant's appraisal report contained "misrepresentations, errors, and omissions". Specifically, Applicant improperly identified neighborhood boundaries and comparable sales, gave incorrect legal descriptions of parcels, and misstated features of the properties, which resulted in Applicant significantly overinflating the appraised value of each property. (Department's Exhibit 3)
11. On June 28, 2007, the Indiana Real Estate Appraiser Licensure and Certification Board held Applicant in default and entered its Findings of Fact, Conclusions of Law and Order against her.
12. In revoking Applicant's real estate appraiser license, the Board held that Applicant failed to keep abreast of current professional theory or practice failed to properly supervise her trainee, failed to employ recognized methods and techniques that were necessary to produce a credible appraisal, provided appraisal services in a careless and negligent

manner, and engaged in fraud or material deception in the course of professional services.

(Department's Exhibit 3)

13. Applicant acknowledges that Howard was her trainee during the time she owned her appraisal company. (Hearing Transcript, p. 12-13)
14. Applicant testified that, to her recollection, Howard did not become her trainee until three (3) years after the Subject Appraisals were completed. (Hearing Transcript, p. 12-13, 41)
15. Applicant offered an email from another one of her employees dated January 22, 2019 wherein the employee stated that she also does not recall Howard working at the company until 2004. (Applicant's Exhibit B)
16. Applicant did not offer any evidence to show when Howard was her trainee that would have been recorded at or near the time of his employment, such as paystubs, training records, etc.
17. Applicant testified that she did not do the Subject Appraisals and argued that Howard could have fabricated and backdated the appraisals, without offering any explanation as to why or how such a fabrication would have occurred beyond the fact that he had his own computer. (Hearing Transcript p. 23)
18. At no point prior to the IDOI hearing, either during the Board's proceedings or in her communication with the Department, did Applicant represent that she did not do the Subject Appraisals. (Department's Exhibit 6, Hearing Transcript, p. 92)
19. Applicant did not attempt to challenge the Attorney General's complaint or the Board's Order until the IDOI hearing.

20. Applicant states that this is because she did not know about the Board's action or the revocation of her license until she was preparing her application for the Department.
(Hearing Transcript, p. 49)
21. The Board's Order was mailed to Applicant's Florida address, via certified mail, and signed for by Applicant on July 5, 2007. (Department's Exhibit 3)
22. Applicant testified she did not open the mail. (Hearing Transcript, p. 31)
23. On her November application for licensing, Applicant further disclosed that her Florida real estate appraiser license was suspended on May 8, 2008. (Department's Exhibit 5)
24. The Respondent's suspension was also caused by Applicant's misrepresenting the square footage and features of a property. (Hearing Transcript, p. 35)
25. Applicant acknowledges that overstating home features and square footage would cause the appraised value to be overinflated. (Hearing Transcript, p. 56)
26. Applicant admitted two (2) exhibits at the hearing. Applicant's Exhibit A is the chronological case summary of Applicant's divorce proceedings. Applicant's Exhibit B, referenced above, is an email from her former employee regarding the employee's recollection of when Howard was her trainee.
27. Conclusions of Law that can be adopted a Findings of Fact are hereby incorporated herein as such.

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 issue an Insurance Producer License, due to a number of factors.
4. Specifically, Indiana Code 27-1-15.6-12(b)(8) allows the Commissioner to deny 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. Applicant's Indiana real estate appraiser license was revoked for negligence, carelessness, failing to employ recognized methods and techniques necessary for a credible appraisal, fraud, and misrepresentation.
6. While Applicant argues that she did not complete the appraisals the Board considered, Applicant's Florida real estate appraiser license was suspended the next year on the same grounds.
7. The ALJ finds the Board's Findings of Fact, Conclusions of Law, and Order filed June 28, 2007 reliable and credible.
8. It is reasonable for the Commissioner to take into consideration the Applicant's professional licensing history, and the circumstances surrounding any actions taken against an Applicant's previously held professional licenses, when determining whether to grant or deny Insurance Producer License.
9. 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. Applicant is requesting that the Department issue her a Resident Producer License and, therefore, bears the burden.

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Indianapolis, IN 46236)

Applicant.)

Type of Agency Action: Enforcement)

Application ID: 666095)

FILED
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STATE OF INDIANA
~~DEPT. OF INSURANCE~~
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PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to Deborah Sterling (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for resident producer’s licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on August 13, 2018.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-6 and Indiana Code § 27-1-15.6-12.
3. Indiana Code § 27-1-15.6-12(b)(8) authorizes the Commissioner to refuse to issue a 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.

4. Following a review of materials submitted by Applicant in support of her application, the Commissioner being fully advised, now hereby notifies Applicant that she has not fully met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b)(8), due to circumstances resulting in the June 28, 2007 permanent revocation of Applicant's Indiana real estate appraiser license and a six month suspension of her Florida real estate appraiser license in May, 2008.
5. Indiana Code § 27-1-15.6-12(d) provides that the Applicant may, not more than sixty-three (63) days after notice of denial of the applicant's application is mailed, make written demand to the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action.

IT IS THEREFORE ORDERED that the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code § 27-1-15.6-12(b)(8) for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

October 5, 2018

Date Signed

Stephen W. Robertson

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

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10. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Applicant has failed to meet her burden of proving the Commissioner's decision was unreasonable.
11. 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 denial of Applicant's application for a Resident Producer License should be **AFFIRMED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 18th day of June, 2019.



Reuben B. Hill, Esq.
Administrative Law Judge

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