

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO: 18115-AG19-0321-036

IN THE MATTER OF:)
)
Timothy Baldry)
1350 S. Ellsworth Rd., Apt. 1125)
Mesa, AZ 85209)
)
Respondent.)
)
License Number: 3380135)
)
Type of Agency Action: Enforcement)

FILED

AUG 16 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On June 20, 2019, 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. Respondent's nonresident producer's license #3380135 is suspended until Respondent contacts the Department, pays a civil penalty in the amount of five hundred dollars (\$500), and completes three (3) hours of ethics training in addition to the requirements of Indiana Code § 27-1-15.7-2, effective immediately.

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 16 day of August, 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Timothy Baldry
1350 S. Ellsworth Rd., Apt. 1125
Mesa, AZ 85209

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

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JUN 20 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: 6-20-19


Reuben B. Hill
Administrative Law Judge

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**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 Timothy Baldry (“Respondent”). This matter came on to be heard by the ALJ on May 16, 2019 at 1:00 p.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, Victoria Hastings. Respondent failed to appear. 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 his Recommended Default Order.

FINDINGS OF FACT

1. Respondent has been a licensed Non-Resident Insurance Producer since October 1, 2018.
2. Respondent was terminated for cause from American Family Insurance Company (“American Family”) on March 1, 2019 following a consumer complaint and ensuing investigation. (Department’s Exhibits 1 and 2)
3. In the first week of December, 2018, Respondent sold a new automobile policy to a consumer (“Complainant”). Complainant had recently paid the December, 2018 premium for his current policy with another company, Complainant requested the new American Family policy become effective in January, 2019. (Department’s Exhibit2)
4. Respondent advised Complainant that he would need to call back in the first week of January and request the policy to start. (Department’s Exhibit 2)
5. In early January, 2019, Complainant called Respondent and requested to activate the policy with an effective date of January 21, 2019. (Department’s Exhibit 2)
6. Respondent issued the policy, but failed to change the effective date, imputing an effective date in December, 2018 instead of January, 2019. (Department’s Exhibit 2)
7. Complainant paid the initial premium for December, 2018 for the new American Family policy. (Department’s Exhibit 2)
8. American Family had recently implemented a rate increase which went into effect on January 1, 2019. (Department’s Exhibit 2)
9. Complainant contacted Respondent regarding the effective date error, and Respondent informed him that if he cancelled the December policy and the premium was refunded,

Complainant would incur a premium increase when the new January policy issued.

(Department's Exhibit 2)

10. Respondent subsequently informed Complainant that Respondent could reimburse him for the month of December if he would keep the policy. (Department's Exhibit 2)
11. After receiving the consumer complaint, American Family confronted Respondent and Respondent submitted to offering a cash rebate for the first month's premium on the policy, in an attempt to "make things right for his mistake." (Department's Exhibit 2)
12. American Family conducted an investigation and terminated Respondent for cause for rebating. (Department's Exhibit 2)
13. American Family reported Respondent's termination for cause to the Department on March 11, 2019. (Department's Exhibit 1)
14. The Department filed its Statement of Charges and request for hearing on April 15, 2019.
15. Respondent was notified of the hearing via mail to Respondent's address of record and via email to Respondent's email address. (Hearing Transcript p. 12)
16. Respondent did not provide a phone number at which he could be reached or otherwise appear for the hearing. (Hearing Transcript p. 13)
17. A Default Hearing was held.
18. 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 suspend an Insurance Producer License, due to a number of factors.
4. Indiana Code 27-1-15.6-12(b)(2)(A) allows the Commissioner to suspend an Insurance Producer License for violating an insurance law.
5. Indiana Code 27-4-1-4(a)(8) is an insurance law that states, in part, that it is an unfair method of competition and unfair and deceptive act in the business of insurance to knowingly pay or offer to pay, allow, or give, directly or indirectly, as inducement to insurance, any rebate of premiums payable on the contract.
6. As an inducement to avoid the Complainant canceling an insurance policy, Respondent offered to pay the Complainant's first month's premium on the policy.
7. Respondent's actions constitute rebating in violation of Indiana Code 27-4-1-4(a)(8).
8. Indiana Code 4-21.5-3-14© states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. The Department is requesting that the Commissioner suspend Respondent's Resident Producer License.
9. The Department has met its burden of showing Respondent violated Indiana Code 27-4-1-4(a)(8), and that Respondent's Non-Resident Producer License should be suspended.
10. Indiana Code 4-21.5-3-24 states, in part, that if a party fails to attend or participate in a hearing, the administrative law judge may serve upon all parties written notice of a proposed Default Order, including a statement of the grounds. Within seven (7) days after service of a proposed Default Order, Respondent may file a written motion

requesting the proposed Default Order not be imposed and stating the grounds relied upon.

11. 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. That Respondent's Non-Resident Producer License #3380135 be suspended until Respondent contacts the Department, pays a civil penalty in the amount of Five Hundred Dollars (\$500.00), and completes three (3) hours of ethics training in addition to the requirements of Indiana Code 27-1-15.7-2, effective the date the Final Order is issued.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 20th day of June, 2019.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Timothy Baldry
1350 S. Ellsworth Rd., Apt. 1125
Mesa, AZ 85209

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

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APR 15 2019

STATE OF INDIANA
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STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance (“Department”), by counsel, Victoria Hastings, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.*, files its Statement of Charges against Timothy Baldry (“Respondent”) as follows:

FACTS

1. Timothy Baldry (“Respondent”) is a licensed nonresident insurance producer, holding license number 3380135 since October 1, 2018. His license is due for renewal on October 31, 2020.
2. Respondent was an employee of American Family Insurance, and was terminated for cause on March 1, 2019 for rebating.
3. In the first week of December of 2018, Respondent sold a new automobile policy to a consumer. Because the consumer had recently paid the premium for his current policy for December 2018, he requested the policy have an effective date of January 1, 2019.

4. Respondent advised the consumer that the consumer would need to call the first week of January in 2019 and request the policy to start. In early January 2019, the consumer called Respondent and requested to activate the policy.
5. Respondent issued the policy to the consumer but forgot input the effective date to January 1, 2019, and the consumer paid the initial premium for December 2018.
6. The consumer contacted Respondent, and Respondent informed the consumer that he would reimburse the consumer for the month of December 2018 if the consumer would keep the policy.
7. American Family Insurance implemented a rate increase which went into effect on January 1, 2019. Respondent informed the consumer that if the consumer cancelled the December 2018 policy to get his premium refunded, then the consumer would incur a premium increase when the January 2019 policy is issued.
8. American Family Insurance was made aware of this issue and terminated Respondent for cause.

CHARGES

COUNT 1

1. Averments 1 through 8 are incorporated fully herein by reference.
2. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-12(b)(2)(A), which provides, in part, that the Commissioner may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, or take any combination of these actions for violating an insurance law.

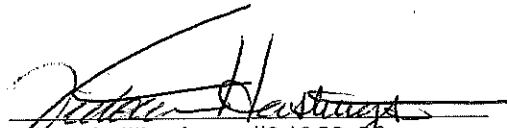
COUNT 2

1. Averments 1 through 8 are incorporated fully herein by reference.
2. Respondent's conduct is a violation of Indiana Code § 27-4-1-4(a)(8) is an insurance law, which states in part, that it is an unfair method of competition and unfair and deceptive act in the business of insurance to knowingly pay or allow, or give, directly or indirectly, as inducement to such insurance, any rebate of premiums payable on the contract.

WHEREFORE, the Enforcement Division of the Indiana Department of Insurance, by counsel, Victoria Hastings, requests that the Commissioner set this matter for a hearing pursuant to Indiana Code § 4-21.5, and:

1. Issue an order suspending Respondent's nonresident producer license;
2. All other relief just and proper in the premises.

Respectfully submitted,

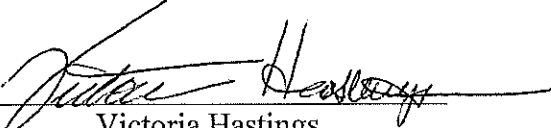

Victoria Hastings, #34052-29
Attorney, Enforcement Division

Victoria Hastings, attorney
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: (317) 234-2101
Facsimile: (317) 232-5251

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following Respondent by United States first class mail, postage prepaid, the same day as filing.

Timothy Baldry
1350 S. Ellsworth Rd., Apt. 1125
Mesa, AZ 85209


Victoria Hastings