

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO: 18284-AG20-0123-020

IN THE MATTER OF:)
)
Daniel Kerr)
1750 E. State Rd 13,)
North Manchester, IN 46962)
)
Respondent.)
)
Type of Agency Action: Enforcement)
)
License Number: 562701)

FILED
JUN 12 2020
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

The Enforcement Division of the Indiana Department of Insurance (“Department”), by counsel, Victoria Hastings, and Daniel Kerr (“Respondent”), a licensed resident insurance producer, signed an Agreed Entry which purports to resolve all issues involved in the above-captioned cause number, which has been submitted to the Commissioner of the Indiana Department of Insurance (“Commissioner”) for approval.

The Commissioner, after reviewing the Agreed Entry, which places Respondent’s resident producer license on probation for a period of two (2) years, during which time Respondent will be required to submit a current list of appointments by US Postal Service every six (6) months from the date of this Final Order, Respondent is also required to submit to the Department within two (2) business days, documents regarding suitability of sales for all of his sales that occurred within the six (6) months preceding the request, and it imposes a two thousand five hundred dollar (\$2,500) civil penalty against Respondent for Respondent’s negligence in completing an application for an annuity, finds it has been entered into fairly and without fraud, duress or undue

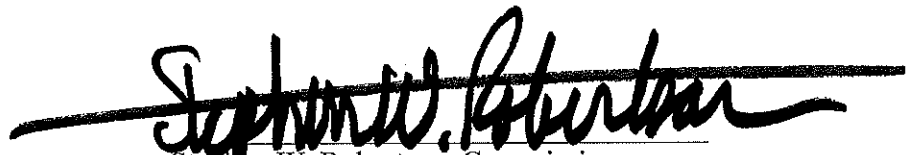
influence, and is fair and equitable between the parties. The Commissioner hereby incorporates the Agreed Entry, attached, as if fully set forth herein, and approves and adopts in full the Agreed Entry as resolution of this matter.

IT IS THEREFORE ORDERED by the Commissioner as follows:

1. Respondent's resident producer license shall be placed on probation for a period of two (2) years, beginning the date the Commissioner signs this Final Order.
2. During the probationary period, Respondent will be required to submit a current list of appointments by US Postal Service every six (6) months from the date of this Final Order.
3. During the probationary period, any violations of Title 27 of the Indiana Code will result in the Department seeking immediate revocation of Respondent's license.
4. During the probationary period, Respondent shall submit to the Department within two (2) business days, documents regarding suitability of sales for all of his sales that occurred within the six (6) months preceding the request.
5. Respondent shall pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500), to the Department within thirty (30) days after the Commissioner signs this Final Order.

6-12-2020

Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Victoria Hastings, Attorney
ATTN: Phil Holleman, Sr. Investigator
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

Daniel Kerr
1750 E. State Rd 13,
North Manchester, IN 46962

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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 Victoria Hastings, and Daniel Kerr ("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 is a licensed resident insurance producer, holding license number 562701 since October 4, 2007;

WHEREAS, Respondent was negligent in completing an application for annuitant Steven Thorn which resulted in death benefits being paid to the annuitant's sons instead of his wife;

WHEREAS, Indiana Code § 27-1-15.6-12(b)(8) states, in part, that the Commissioner may levy a civil penalty against an insurance producer, and 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 pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500) to the Department within thirty (30) days after the Commissioner signs the Final Order adopting this Agreed Entry.
8. Respondent's resident producer license #562701 shall be placed on probation for a period of two (2) years, beginning the date the Commissioner signs the Final Order adopting this Agreed Entry. During the probationary period, any violations of Title 27 of the Indiana Code will result in the Department seeking immediate revocation of Respondent's license. During the probationary period, Respondent shall submit a current list of appointments to the Department every six (6) months from the date of the Final Order by US Postal Service. During the probationary period, Respondent shall submit to the Department within two (2) business days, documents regarding suitability of sales for all of his sales that occurred within the six (6) months preceding the request.
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.

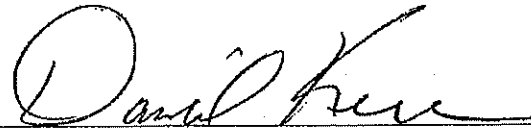
12. This Agreed Entry constitutes the entire agreement between the Parties, and no other promises or agreements, express or implied, have been made by the Department or by any employee, director, agent or other representative thereof to induce Respondent to enter this Agreed Entry.
13. The Department 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.

5/6/2020
Date Signed


Victoria Hastings, Attorney #34012-29
Indiana Department of Insurance

April 28/2020
Date Signed


Daniel Kerr, Respondent

STATE OF INDIANA)
COUNTY OF Wabash) SS:

Before me a Notary Public for Wabash County, State of Indiana,
personally appeared Daniel Kerr 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 28th day of April, 2020.



SHIRLEY F. SIMCOE
COUNTY OF RESIDENCE - KOSCIUSKO
Commission #NP0663391
Commission Expires 01-29-2023

Shirley F. Simcoe
Signature
Shirley F. Simcoe
Printed

My Commission expires: 1-29-2023
County of Residence: Kosciusko

Return executed originals to:
INDIANA DEPARTMENT OF INSURANCE
Enforcement Division, Suite 103
311 West Washington Street
Indianapolis, IN 46204-2787
317/234-5883 - telephone
317/234-2103 - facsimile