

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 20646-AG22-0111-003
ADMINISTRATIVE CAUSE NO.: DOI-2201-000114

IN MATTER OF:)

Edwin Larson)
1595 East 85th Avenue)
Merrillville, IN 46410)

Respondent.)

Type of Agency Action: Enforcement)

License Number: 1039958)

FILED

MAY 23 2023

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND FINAL ORDER

Evidentiary hearings were held on this matter on October 6, 2022, and October 17, 2022, with each session beginning at 10:00 AM EST via audio conferencing at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana. On March 7, 2023, the Administrative Law Judge, Brian D. Hahn, filed Findings of Fact, Conclusions of Law and a Non-Final Order ("Recommended Order") in the above-captioned matter under Indiana Code § 4-21.5-3-27.

1. The Department's counsel timely filed an objection on April 19, 2023.
2. The ultimate authority shall issue a final order affirming, modifying, or dissolving the administrative law judge's order under Indiana Code § 4-21.5-3-29.

Therefore, the Commissioner of Insurance, being fully advised, now hereby DISSOLVES the Recommended Order and issues the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. Respondent has held Indiana resident insurance producer license number 1039958 since June 8, 2015. (ALH-2, p. 6)

2. Respondent was an insurance agent on an independent contractor basis for State Farm Mutual Insurance Company ("State Farm") from January 1, 2016, until he resigned on May 26, 2020. (ALH-2, p. 7)

3. The Department's investigation into Respondent started after the Department received notice from State Farm of concerns Respondent violated Indiana insurance laws. (ALH-1, p. 78)

4. State Farm conducted an Internal Audit Investigation ("Internal Audit") into Respondent, an agent for State Farm, which concluded February 25, 2020. (Department's Exhibit 1)

5. The Internal Audit was part of a larger investigation into application input concerns with State Farm independent contractors by State Farm's audit department. (ALH-1, p. 18, 32)

6. On or about November 3, 2018, State Farm received a complaint from LaShonda Bender ("Ms. Bender") that a policy was started in her name without her knowledge that she did not sign up for. (Department's Exhibit 2)

7. Respondent admits to issuing a policy for Ms. Bender without her consent or knowledge. (ALH-2, p. 10)

8. Respondent's quoting history of application quotes pulled in the Internal Audit from February 12, 2018, is outside of customary quoting for State Farm agents, as drivers were added and removed in a short time frame, indicating Respondent searching for a favorable price

as opposed to a correct representation of the household sought to be insured. (Department's Exhibit 3, ALH-1, p. 51)

9. Carrie Lamphear ("Ms. Lamphear") was an employee and agent supervised by Respondent from 2018 through May of 2020, the time frame covered by the Internal Audit. (ALH-2, p. 14, Department's Exhibit 1)

10. Ms. Lamphear entered into an Agreed Entry on or about July 28, 2021, which was approved by the Commissioner on or about August 11, 2021, permanently revoking Ms. Lamphear's resident producer license. (Department's Exhibit 8)

11. Ms. Lamphear admits to failing to provide required consumer report disclosure to an applicant prior to requesting the consumer reports, adding unrelated individuals to a quote in an attempt to qualify the customer for coverage, entering inaccurate information to impact the overall premium for a customer, and reassigning drivers to short mileage vehicles in an attempt to lower the premium at the direction of her supervisor in violation of Ind. Code §§ 27-1-15.6-12(b)(5) and 27-1-15.6-12(b)(8). (Department's Exhibit 8)

12. On or about January 16, 2020, Respondent admitted to State Farm internal investigators that Respondent did not direct his team members to provide the required consumer report disclosure to an applicant prior to requesting the consumer reports. (Department's Exhibit 1)

13. On or about January 5, 2019, Respondent directed his team member, Anna Blaszak, to add an unrelated individual to a quote in attempt to qualify a customer for coverage. (Department's Exhibit 4)

14. On or about February 15, 2019, Respondent directed his team member, Ms. Lamphear, to add an unrelated individual to a quote in an attempt to qualify a customer for coverage. (Department's Exhibit 5)

15. On or about May 24, 2019, Respondent directed his team member, Ms. Lamphear, to add an unrelated individual to a quote in an attempt to qualify a customer for coverage. (Department's Exhibit 6)

16. On or about February 2, 2018, Respondent directed his team member, Ms. Lamphear, to short mileage vehicles in an attempt to lower the overall premium. (Department's Exhibit 7)

17. State Farm Investigator Tim Rood testified that if a cheaper premium is warranted for short mileage, the information to determine if short mileage applies would come from the customer and not from Respondent or his employees' internal decision. (ALH-1, p. 56)

18. Respondent did not admit exhibits at the hearing.

19. The Department admitted eight (8) exhibits at the hearing. Department's Exhibit 1 is the State Farm Internal Audit Investigation report. Department's Exhibit 2 is Ms. Bender's complaint to State Farm. Department's Exhibit 3 is a history of quoting activity by Respondent. Department's Exhibit 4 is the conversation between Respondent and Anna Blaszk. Department's Exhibit 5 is a February 15, 2019, conversation between Respondent and Ms. Lamphear. Department's Exhibit 6 is a May 24, 2019, conversation between Respondent and Ms. Lamphear. Department's Exhibit 7 is a February 2, 2018, conversation between Respondent and Ms. Lamphear. Department's Exhibit 8 is Ms. Lamphear's Final Order.

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

CONCLUSIONS OF LAW

1. The Office of Administrative Law Proceedings ("OALP") has jurisdiction over both the subject matter and the parties to this action and the Commissioner of the Department of Insurance ("Commissioner") has final authority. Ind. Code § 27-1-15.6-12(d); Ind. Code § 4-15-10.5-12; Ind. Code § 4-15-10.5-13

2. The hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, Ind. Code § 4-21.5-2. Ind. Code § 27-1-15.6-12(d).

3. Indiana Code 4-21.5-3-25(b) provides that an "administrative law judge shall regulate the course of the proceedings . . . in an informal manner without recourse to the technical, common-law rules of evidence applicable to civil actions in the courts."

4. Hearsay evidence is admissible in administrative proceedings. "However, if the evidence is properly objected to and does not fall within a recognized exception to the hearsay rule, the resulting order may not be based solely upon the hearsay evidence" under Ind. Code 4-21.5-3-26.

5. As records "kept in the course of a regularly conducted activity of a business," Department's Exhibits 1 through 7 were properly admitted at hearing under the business records exception to the rule against hearsay. Ind. R. Evid. 803(6)

6. Department's Exhibit 8 was properly admitted via judicial notice. Ind. Code 4-21.5-3-26(f)(1); Ind. R. Evid. 201(c)(2)

7. Indiana Code § 27-1-15.6-12(b)(5) authorizes the Commissioner to reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take

any combination of these actions, for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

8. Indiana Code § 27-1-15.6-12(b)(8) authorizes the Commissioner to reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

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. The Department requests that the Commissioner of permanently revoke Respondent's resident producer license 1039958. Therefore, the Department bears the burden of proof.

10. Respondent's acknowledged failure to instruct his employees to provide required consumer report disclosures prior to requesting consumer reports is a violation of Indiana insurance law. Ind. Code § 27-1-15.6-12(b)(5)

11. Respondent's quoting history and conversations between Respondent and his employees show he entered inaccurate information in order to qualify consumers for discounts on several occasions and instructed his employees to do the same. This is a violation of Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8)

12. The Department has met its burden of showing Respondent violated Indiana Code §§ 27-1-15.6-12(b)(5) and 27-1-15.6-12(b)(8), and that disciplinary action is warranted.

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

FINAL ORDER

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. That the Respondent's Indiana resident insurance producer license number 1039958 be revoked immediately.
2. Respondent is not permitted to reapply for two (2) years.
3. Respondent is fined One Thousand (\$1,000.00) dollars due within sixty (60) days.

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 23 day of May, 2023.


Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Indiana Department of Insurance, Samantha Aldridge, Attorney at saldridge@idoi.in.gov

Edwin Larson, III – Respondent via counsel, Tom Hirschauer at tom@indyjustice.com

ALJ Brian D. Hahn, Office of Administrative Law Proceedings at oalp@oalp.in.gov

NON-FINAL ORDER

Pursuant to IC 4-21.5 this order is not final and shall be presented to the ultimate authority for issuance of a final order.



FILED: March 7, 2023

STATE OF INDIANA OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DOI-2201-000114

Underlying/State Agency Action No.: 20646-AG22-0111-003

FINAL AGENCY AUTHORITY: Commissioner of the Department of Insurance

Indiana Department of Insurance,
Petitioner,

v.

Edwin Larson III,
Respondent.

Type of Agency Action: Enforcement

License Number: 1039958

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND NON-FINAL ORDER

Evidentiary hearings were held on October 6, 2022 and October 17, 2022, with each session beginning at 10:00 am EST via telephonic conference. These proceedings were recorded and transcribed. The transcript of the October 6, 2022 proceeding will be referred to as ALH-1 and the transcript of the October 17, 2022 proceeding will be referred to as ALH-2.

The Indiana Department of Insurance ("Petitioner") appeared via its counsel, Samantha Aldridge. Edwin Larson, III ("Respondent") appeared with counsel, Tom F. Hirschauer, III. Administrative Law Judge ("ALJ") Brian D. Hahn, having heard, reviewed, and considered all of the evidence, now renders a decision concerning the appeal of Respondent.

Petitioner called the following individuals as witnesses:

- Phil Holleman, Senior Investigator for the Indiana Department of Insurance Enforcement Unit.
- Timothy Rood, State Farm Audit Investigator

Petitioner submitted eight (8) proposed exhibits, identified as Petitioner's Exhibits ("PX") 1 through 8.

- PX 1 is an eighteen (18) page document entitled State Farm Internal Audit Investigation Report dated February 25, 2020¹.
 - Admitted over objection of hearsay and foundation.
- PX 2 is a one (1) page document consisting of a computer note pertaining to a telephonic complaint received by State Farm on November 3, 2018, purportedly from an individual named LaShonda R. Bender, regarding a policy being issued to her without approval.
 - Admitted over objection of hearsay and foundation.
- PX 3 is a one (1) page document pertaining to quotes submitted with respect to a purported customers named Duane Sharp and Sharon Harris.
 - Admitted over objection of hearsay and foundation.
- PX 4, is a two (2) page document consisting of an electronic instant message exchange between Respondent and Anna Blaszk on January 5, 2019.
 - Admitted over objection of hearsay and foundation.
- PX 5, is a two (2) page document consisting of an electronic instant message exchange between Respondent and Carrie Lamphear on February 15, 2019.
 - Admitted over objection of hearsay and foundation.
- PX 6 is a one (1) page document consisting of an electronic instant message exchange between Respondent and Carrie Lamphear on May 24, 2019.
 - Admitted over objection of hearsay and foundation.

¹ PX 1 did not contain the exhibits referenced within the document. Exhibits PX 2 through PX 7 are exhibits listed in PX 1.

- PX 7 is a two (2) page document consisting of an electronic instant message exchange between Respondent and Carrie Lamphear on February 2, 2018.
 - Admitted over objection of hearsay and foundation.
- PX 8 is a nine (9) page document entitled Final Order filed on August 11, 2021, pertaining to an agreed entry permanently revoking the resident producer license of Carrie Lamphear.
 - Admitted over objection of relevance, hearsay and foundation.

Respondent testified on his own behalf. Respondent did not seek to admit any of his proposed exhibits into evidence.

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

FINDINGS OF FACT²

1. Respondent has held Indiana resident insurance producer license 1039958 since June 8, 2015.(ALH-2, p. 6)
2. Respondent was an insurance agent on an independent contractor basis for State Farm Mutual Insurance Company ("State Farm") from January 1, 2016 until he resigned on May 26, 2020 to pursue a new opportunity in the insurance industry. (ALH-2, p. 7)
3. State Farm's investigation initially focused on Respondent's agency before eventually focusing on Respondent and his employees individually with respect to their practices involving new applications and issuing auto policies. (ALH-1, p. 18)
4. On February 25, 2020, State Farm concluded its internal audit into Respondent while he was an agent for State Farm. (PX 1)
5. Timothy Rood was an audit investigator with State Farm Mutual Insurance Company for approximately ten years. (ALH-1, p. 17,26)

² Findings of fact that can be construed as conclusions of law and conclusions of law that can be construed as findings of fact are hereby incorporated as such by reference.

6. Mr. Rood became familiar with Edwin Larson from supervision of an investigation conducted by primary investigator Keifran Arter, however, he was not the primary investigator on the case. (ALH-1, p. 17-18)
7. Mr. Arter reported to another manager outside of this investigation. (ALH-1, p. 17-18)
8. Mr. Rood was not present for any interviews of Respondent or his employees. (ALH-1, p.19)
9. Audit reports similar to the one prepared with respect to Respondent have been used in litigation. (ALH-1, p.27)
10. Mr. Rood knew nothing about the Sharp family referenced in PX 3. (ALH-1, p.59)
11. Mr. Rood knew nothing about the volume of quotes issued by Respondent's agency or the volume of business conducted by Respondent's agency. (ALH-1, p. 63-64)
12. Mr. Rood had no personal knowledge and was unable to state specifically whether any the alleged improper conduct amounted to anything more than being potentially concerning and could not relate any to any specific policies. (ALH-1, p.58; 63-64)
13. Phil Holleman works for the Indiana Department of Insurance as an investigator for the Indiana Department of Insurance. (ALH-1. p.75-76.)
14. Petitioner received a letter from State Farm saying that an agent had been terminated for cause, which means that State Farm terminated the employment of an individual because it felt that they had violated Indiana insurance laws. (ALH-1, p.78)
15. Petitioner initiated an investigation into Respondent following receipt notice from State Farm of concerns Respondent may have violated Indiana insurance laws. (ALH-1 p. 78)
16. Mr. Holleman was not the original investigator with respect to Respondent. (ALH-1, p. 76)
17. Petitioner conducted no further investigation beyond that which was already done by State Farm and adopted the audit findings. (ALH-1, p.81)
18. Petitioner regularly relies upon investigation reports from insurance companies. (ALH-1, p.82)
19. Mr. Holleman was not involved in the agreed entry pertaining to Carrie Lamphear. ALH-1, p. 96-98; PX 8)
20. Respondent did not know he was being interviewed as part of an investigation by State Farm. (ALH-2, p.10)

21. Respondent did not admit that he and his team members failed to provide required consumer report disclosures. (ALH-2, p. 11)
22. Respondent did not direct his team members to add potentially unrelated or individuals who were not a legitimate risk or part of a household to quotes for multicar discounts. (ALH-2, p.13)
23. Carrie Lamphear worked for Respondent's agency from the autumn of 2016 to May 2020. (ALH-2, p.16)
24. Respondent denied the material allegations and the statements allegedly attributed to him that are reflected in PX 1 and PX 8 (ALH-2; p.10-13; PX 1, PX 8).

CONCLUSIONS OF LAW

1. The Office of Administrative Law Proceedings ("OALP") has jurisdiction over both the subject matter and the parties to this action and the Commissioner of the Department of Insurance ("Commissioner") has final authority. IC 27-1-15.6-12(d); IC 4-15-10.5-12; IC 4-15-10.5-13.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, IC 4-21.5-3. IC 27-1-15.6-12(d).
3. A party requesting an agency act has the burden of persuasion and the burden of going forward. Indiana Code 4-21.5-3-14(c). Petitioner requests that the Commissioner of the Department of Insurance permanently revoke Respondent's resident producer license 1039958, therefore Petitioner bears the burden of proof.
4. The Commissioner "may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions..., " to an individual who has "Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance." IC 27-1-15.6-12(b)(5).
5. Proceedings held before an ALJ are *de novo*, which means the ALJ does not—and may not—defer to an agency's initial determination. Indiana Code § 4-21.5-3-14(d); *Ind. Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993). Instead, in its

role as factfinder, the ALJ must independently weigh the evidence in the record and may base findings and conclusions only upon that record. *Id.* At a minimum, the ALJ's findings "...must be based upon the kind of evidence that is substantial and reliable." Indiana Code § 4-21.5-3-27(d). "[S]ubstantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support the decision..." *St. Charles Tower, Inc. v. Bd. of Zoning Appeals*, 873 N.E.2d 598, 601 (Ind. 2007).

6. Petitioner relied exclusively on the internal audit conducted by State Farm as the basis for its current action against Respondent. Additionally, Petitioner sought to use the Agreed Entry attached to its Final Order in PX 8 as a collateral means of proving Respondent's liability based upon the alleged admissions of Carrie Lamphear, a former employee of Respondent's agency. Over the foundation and hearsay objections of Respondent, these records were admitted under the exception to the hearsay rule found at Ind. R. Evid. 803(6), commonly referred to as the business record exception. Upon further review, it was an error to admit these documents under the business record exception.
7. The basis for the business records exception is that reliability is assured because the maker of the record relies on the record in the ordinary course of business activities. The "regular course" of business "must find its meaning in the inherent nature of the business in question and in the methods systematically employed for the conduct of the business as a business." *In re Termination of Parent-Child Relationship of E.T. and B.T.*, 808 N.E.2d 639, 643 (Ind. 2004) quoting *Palmer v. Hoffman*, 318 U.S. 109, 115, 63 S.Ct. 477, 87 L.Ed. 645 (1943). If a company does not rely upon certain records for the performance of its functions, those records are not business records within the meaning of the exception to the hearsay rule. *Id.* It is not enough to qualify under the business records exception to show that the records are made regularly; rather, the court must also look to "the character of the records and their earmarks of reliability acquired from their source and origin and the nature of their compilation." *Id.* (quoting *Palmer*, 318 U.S. 109, 115, 63 S.Ct. 477, 87 L.Ed. 645 (1943)).
8. This forum now finds that the proffered exhibits are not records prepared in the regular course of business for either State Farm or Petitioner. These documents were not

prepared for the systematic conduct of either entity's respective enterprises. State Farm at its essential core is a business that sells insurance policies to the general public. The utility of the audit report is for potential litigation with respect to Respondent rather than in selling insurance policies to the public. More importantly, the nature of the documents inherently do not possess the hallmarks of reliability as they contain conclusions from individuals who were not present during the hearings and out of reach of the usual tests for accuracy, namely cross-examination and impeachment of the declarant.

9. Putting aside the foundational problems, as neither witness for Petitioner had any direct involvement in the preparation of the information contained in the exhibits, Petitioner's exhibits and the information contained therein unquestionably constitute inadmissible hearsay. The issue becomes whether these documents fall under another hearsay exception. As the exhibits were adopted by Petitioner, a state agency, the only potential exception would be the public record hearsay exception found in Ind. R. Evid. 803(8). The Indiana Supreme Court crafted a three-step test for determining the admissibility of hearsay under Ind. R. Evid. 803(8) in *Ealy v. State*, 685 N.E.2d 1047 (Ind.1997). The *Ealy* test has since been extended to all of the exclusions listed in Rule 803(8). *Rhone v. State*, 825 N.E.2d 1277 (Ind. Ct. App. 2005).
10. The first step is to determine whether the record or report contains findings that address a materially contested issue in the case. *Ealy*, 685 N.E.2d at 1054. If the answer to this inquiry is no, then the analysis ends and the record or report is not rendered inadmissible on hearsay grounds. *Id.* Otherwise, the analysis must proceed to the second step, which requires a determination of whether the record or report contains factual findings. *Id.* Factual findings are conclusions drawn by an investigator from the facts. *Id.* at 1051. If the record or report does contain factual findings, then the analysis proceeds on to step three for a determination of whether the report was prepared for advocacy purposes or in anticipation of litigation. *Id.* at 1054. If the report or record was prepared for advocacy purposes or in anticipation of litigation, then it is inadmissible hearsay. *Id.*
11. In the present matter, the forum finds that the audit report prepared by State Farm and adopted by Petitioner is a record or report containing findings that address materially

contested issues in the case. The audit report is the pivotal piece of evidence Petitioner relies upon in its action against Respondent as it conducted no other independent investigation on its own and simply adopted the report conclusions.

12. With respect to the second element of the *Ealy* test, the forum must determine whether the audit report contains factual findings, defined as conclusions drawn by an investigator from the facts, as opposed to “simple listings, or a simple recollection of numbers, and the like.” *Ealy*, 685 N.E.2d at 1054. The testimony of Petitioner’s witnesses confirmed that an internal investigation was conducted by State Farm with statements from individuals obtained, documents gathered, with all being reviewed and ultimately culminating with conclusions drawn by the investigator. As such, this forum finds that audit report contains factual findings.

13. With respect to the third element, this forum finds that the audit was prepared for advocacy purposes or in anticipation of litigation. Ostensibly, the audit report was at the very least going to be used by State Farm’s upper management in deciding the next steps the company would take with respect to its contractual relationship with Respondent had he not resigned. Unquestionably it was ultimately utilized by State Farm to lodge its accusations against Respondent when it was sent to Petitioner. As stated previously, Petitioner following receipt wholly adopted and exclusively used the report and its exhibits in the present action against Respondent. Given the inadmissibility of these documents, this forum finds that Petitioner has not met its burden of proving with admissible evidence that the Commissioner’s decision to revoke Respondent’s license was reasonable.

NON-FINAL RECOMMENDED ORDER

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 the Department of Insurance** that the Indiana Department of Insurance’s request to permanently revoke Edwin Larson, III’s resident producer license number 1039958 be **DENIED**.

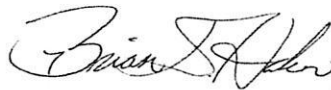
ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of the Department of Insurance on March 7, 2023. In accordance with Ind. Code §

4-15-10.5-12(b), the OALP's order disposing of this matter is not final. This non-final order is subject to review by the Commissioner of Insurance.

This matter is now before the ultimate authority, the Commissioner of Insurance who has the final authority over this matter and shall review this order and issue a final order to all parties.

To preserve an objection to this order for judicial review, the Parties must object to the order in writing that: 1) Identifies the basis for the objection with reasonable particularity; and 2) Is filed with the ultimate authority, the Commissioner of the Department of Insurance, within fifteen (15) days from the date of this Order. Indiana Code 4-21.5-3-29. For provisions on how to compute days see Ind. Code § 4-21.5-3-2.

Any questions regarding this matter may now be directed to Dawn Bopp at dbopp@idoi.in.gov.



Brian D. Hahn, Administrative Law Judge
Office of Administrative Law Proceedings

Distributed to Parties:

Edwin Larson, III – Petitioner, served by counsel, Tom Hirschauer, by E-Mail at tom@indyjustice.com

Indiana Department of Insurance – Respondent, served by Counsel Samantha Aldridge by E-Mail at saldridge@idoi.in.gov

Additional Distribution to Non-Party:

IDOI Commissioner – Ultimate Authority and served by Dawn Bopp at DBopp@idoi.in.gov

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 20646-AG22-0111-003

ADMINISTRATIVE CAUSE NO.: DOI-2201-000114

IN THE MATTER OF:)

Edwin James Larson, III)
1595 East 85th Avenue)
Merrillville, IN 46410)

Respondent.)

License Number: 1039958)

Type of Agency Action: Enforcement)

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

The Administrative Law Judge ("ALJ"), having considered and reviewed all of the evidence, will now render a decision in the matter of Edwin James Larson III ("Respondent"). This matter came to be heard by the ALJ Brian Hahn on October 6, 2022 at 10:00 a.m. ("Day One") and October 17, 2022 at 10:00 a.m. ("Day Two") via audio conferencing at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Samantha Aldridge. Petitioner appeared telephonically and by counsel Tom Hirschauer. 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 and Conclusions of Law and issues the Recommended Order.

FINDINGS OF FACT

1. Respondent is a resident insurance producer, holder license #1039958 since June 8, 2015. (Day Two Hearing Transcript p. 6)
2. Hearing was held on October 6, 2022 and October 17, 2022 regarding Respondent's license.
3. The Department's investigation into Respondent started after the Department received notice from State Farm of concerns Respondent violated Indiana insurance laws. (Day One Hearing Transcript p. 78)
4. State Farm conducted an Internal Audit Investigation ("Internal Audit") into Respondent, an agent for State Farm that concluded February 25, 2020. (Department's Exhibit 1)
5. The Internal Audit was part of a larger investigation into application input concerns with State Farm independent contractors by State Farm's audit department. (Day One Hearing Transcript p. 18, 32)
6. On or about November 3, 2018, State Farm received a complaint from LaShonda Bender ("Ms. Bender") that a policy was started in her name without her knowledge that she did not sign up for. (Department's Exhibit 2)
7. Respondent admits to issuing a policy for Ms. Bender without her consent or knowledge. (Day Two Hearing Transcript p. 10)
8. Respondent's quoting history of application quotes pulled in the Internal Audit from February 12, 2018 is outside of customary quoting for State Farm agents as drivers were added and removed in a short time frame, indicating Respondent searching for a favorable price

as opposed to a correct representation of the household sought to be insured. (Department's Exhibit 3, Day One Hearing Transcript p. 51)

9. Carrie Lamphear ("Ms. Lamphear") was an employee and agent supervised by Respondent from 2018 through May of 2020, the time frame covered by the Internal Audit. (Day Two Hearing Transcript p. 14, Department's Exhibit 1)

10. Ms. Lamphear entered into an Agreed Entry on or about Jul 28, 2021 which was approved by Commissioner on or about August 11, 2021 permanently revoking Ms. Lamphear's resident producer license. (Department's Exhibit 8).

11. Ms. Lamphear admits to failing to provide required customers report disclosure to an applicant prior to requesting the consumer reports, adding unrelated individuals to a quote in attempt to qualify the customer for coverage, entering inaccurate information to impact the overall premium for a customer, and reassigning drivers to short mileage vehicles in an attempt to lower the premium at the direction of her supervisor in violation of Indiana Codes §§ 27-1-15.6-12(b)(5) and 27-1-15.6-12(b)(8). (Department's Exhibit 8)

12. On or about January 16 2020, Respondent admitted to State Farm internal investigators that Respondent did not direct his team members to provide the required consumer report disclosure to an applicant prior to requesting the consumer reports. (Department's Exhibit 1)

13. On or about January 5, 2019, Respondent directed his team member Anna Blaszak to add an unrelated individual to a quote in attempt to qualify a customer for coverage. (Department's Exhibit 4)

14. On or about February 15, 2019, Respondent directed his team member Ms. Lamphear to add an unrelated individual to a quote in an attempt to qualify a customer for coverage. (Department's Exhibit 5)

15. On or about May 24, 2019, Respondent directed his team member Ms. Lamphear to add an unrelated individual to a quote in an attempt to qualify a customer for coverage. (Department's Exhibit 6)

16. On or about February 2, 2018, Respondent directed his team member Ms. Lamphear to short mileage vehicles in attempt attempt to lower the overall premium. (Department's Exhibit 7)

17. State Farm Investigator Tim Rood testified that if a cheaper premium is warranted for short mileage, the information to determine if short mileage applies would come from the customer and not from Respondent or his employees' internal decisions. (Day One Hearing Transcript p 56)

18. Respondent did not admit exhibits at the hearing.

19. The Department admitted eight (8) exhibits at the hearing. Department's Exhibit 1 is the State Farm Internal Audit Investigation report. Department's Exhibit 2 is Ms. Bender's complaint to State Farm. Department's Exhibit 3 is a quoting history run by Respondent. Department's Exhibit 4 is the conversation between Respondent and Anna Blaszak. Department's Exhibit 5 is a February 15, 2019 conversation between Respondent and Ms. Lamphear. Department's Exhibit 6 is a May 24, 2019 conversation between Respondent and Ms. Lamphear. Department's Exhibit 7 is a February 2, 2018 conversation between Respondent and Ms. Lamphear. Department's Exhibit 8 is Ms. Lamphear's Final Order.

20. 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) authorizes the Commissioner to permanently revoke an insurance producer license, due to a number of factors.

4. Indiana Code § 27-1-15.6-12(b)(5) authorizes the Commissioner to permanently revoke an insurance producer's license for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

5. Indiana Code § 27-1-15.6-12(b)(8), authorizes the Commissioner to permanently revoke 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.

6. 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. The Department requests the Commissioner revoke Respondent's resident producer license.

7. The Department has met its burden of showing Respondent violated Indiana Codes §§ 27-1-15.6-12(b)(5) and 27-1-15.6-12(b)(8), and that Respondent's resident producer license should be permanently revoked.

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

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner the following:

1. Respondent's resident insurance producer license #1039958 be permanently revoked, effective the date the Final Order is issued.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2022.

Brian Hahn
Administrative Law Judge

Distribution:

Tom Hirschauer, Attorney for Petitioner
Keffer Hirschauer LLP
230 East Ohio Street, Suite 400
Indianapolis, IN 46204

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



Filed January 24, 2022

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

**BEFORE THE INDIANA
COMMISSIONER OF INSURANCE**

CAUSE NO.: 20646-AG22-0111-003

IN THE MATTER OF:

**Edwin James Larson, III
1595 East 85th Avenue
Merrillville, IN 46410**

Respondent.

License Number: 1039958

Type of Agency Action: Enforcement

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance (“Department”), by counsel, Samantha Aldridge, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5 *et seq.*, files its Statement of Charges against Edwin James Larson, III (“Respondent”), as follows:

FACTS

1. Edwin James Larson, III (“Respondent”) is a resident insurance producer, holding license #1039958 since June 8, 2015.
2. Respondent was an independent contractor agent of State Farm. Carrie C. Lamphear (“Lamphear”) was an employee of Respondent; State Farm alleges Respondent was responsible for and makes all employment decisions regarding Respondent’s employees.
3. Lamphear’s appointment with State Farm was terminated on March 22, 2021 for failing to provide the required consumer report disclosure to an applicant prior to requesting the consumer reports, adding unrelated individuals to a quote in an attempt to qualify the customer for coverage, entering inaccurate information to impact the overall premium for

customer, and reassigning drivers to short mileage vehicles in an attempt to lower the overall premium.

4. On or about May 26, 2021, State Farm informed the Department that Respondent was permitted to resign.
5. In October 2018, Respondent issued an insurance policy without the consumer's consent or knowledge.
6. On or around January 16, 2020, Respondent admitted to State Farm internal investigators that Respondent did not direct his team members to provide the required consumer report disclosure to an applicant prior to requesting the consumer reports.
7. Respondent directed his team members to add unrelated individuals to a quote in an attempt to qualify the customer for coverage, enter inaccurate information to impact the overall premium for customer, and reassign drivers to short mileage vehicles in an attempt to lower the overall premium.
 - a. In 2018, nineteen (19) consumer addresses were used in combination of various, unrelated drivers to obtain multipolicy discounts within Respondent's team and under Respondent's supervision.
 - b. Seven (7) of the nineteen (19) addresses reviewed were done directly under Respondent's login.
 - c. Six (6) correspondences, which took place between January 2018 and July of 2019, where Respondent directed his team to alter applications in order for consumers to qualify for discounts that they otherwise would not qualify for.

- d. On at least one (1) occasion, on or around February 2, 2018, Respondent directed a team member to short mileage a vehicle to obtain a discount the consumer would not otherwise qualify for.

CHARGES

COUNT I

1. Averments 1 through 7 are incorporated fully herein by reference.
2. Indiana Code § 27-1-15.6-12(b) states, in part, that the Commissioner may permanently revoke an insurance producer license, due to a number of causes.
3. Indiana Code § 27-1-15.6-12(b)(5), states, in part, that the Commissioner may permanently revoke an insurance producer license for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

COUNT II

1. Averments 1 through 7 are incorporated fully herein by reference.
2. Indiana Code § 27-1-15.6-12(b) states, in part, that the Commissioner may permanently revoke an insurance producer license, due to a number of causes.
3. Indiana Code § 27-1-15.6-12(b)(8), states, in part, that the Commissioner may permanently revoke 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.

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

1. Issue an order permanently revoking Respondent's resident insurance producer license #1039958; and
2. Grant all other relief necessary and proper in the premises.

Respectfully submitted,



Samantha Aldridge, #35162-49
Attorney, Enforcement Division

Samantha Aldridge, Attorney
ATTN: Taylor Peycha, Sr. Investigator
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: (317) 232-5312
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, this 24th day of January, 2022.

Edwin James Larson III
1595 East 85th Avenue
Merrillville, IN 46410

Keffer Hirschauer LLP
ATTN: Adriana Zeljkovic, Attorney
230 East Ohio Street, Suite 400
Indianapolis, IN 46204

A handwritten signature in blue ink, appearing to read 'Samantha Aldridge', is written over a horizontal line.

Samantha Aldridge #35162-49
Attorney, Enforcement Division