

STATE OF INDIANA

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

COUNTY OF MARION) SS:
)

FILED

IN THE MATTER OF:)
)
)

JAN 16 2024

Peter Samaras)
)
)

STATE OF INDIANA
DEPT. OF INSURANCE

Petitioner)

CAUSE NO.: DOI-2210-002386
20287-AG21-0914-177

Type of Agency Action: Enforcement)
)

FINAL ORDER

On September 8, 2023, the Administrative Law Judge, Carrie Ingram, filed her Non-Final Administrative Decision Order in the above-captioned matter.

1. The Department served Non-Final Administrative Decision Order and Notice of Filing Non-Final Order on Petitioner by emailing his Counsel.

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 Non-Final Administrative Decision Order and more than eighteen (18) days have elapsed.

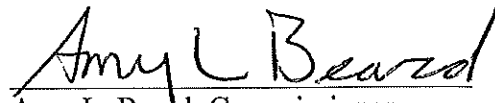
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Non-Final Administrative Decision Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Non-renewal of Petitioner's Resident Producer License is AFFIRMED.

Under Ind. Code §4-21.5-5-5, Petitioner 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 January, 2024.


Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Peter Samaras Counsel's sent via email to djohnston@tcrlaw.com

Samantha Aldridge, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
saldrige@idoi.in.gov

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

CAUSE NO.: 20287-AG21-0914-177

Peter J. Samaras)
5414 Thornbriar Lane)
Fort Wayne, IN 46835)

FILED

Respondent.)

SEP 26 2023

Type of Agency Action: Enforcement)

**STATE OF INDIANA
DEPT. OF INSURANCE**

License Number: 1712470)

SUPPLEMENT TO PETITIONER'S OBJECTION TO ORDER

COMES NOW Petitioner, Peter J. Samaras, by counsel and to supplement his objection previously filed on this same date, submits the additional argument and authority namely:

1. In Paragraph 9, it was held that the Department of Insurance was reasonable in concluding Petitioner demonstrated financial irresponsibility in the conduct of business.

2. As noted in Petitioner's original objection, the sole evidence presented in this matter was that Petitioner had no contact with the State of South Carolina, and thus, the default judgment is *void ab initio*. Accordingly, the Department of Insurance cannot reasonably give any weight to that void judgment in the course of determining a renewal of Petitioner's license.

3. Accordingly, the Department of Insurance cannot find that his failure to pay a civil judgment that is *void ab initio* somehow demonstrates financial irresponsibility in the conduct of his insurance business. While not directly in point, in the case of the *Department of Insurance vs. Shoemaker*, 118 N.E.3d 11, 21-22 (Ind. Ct. App. 2018), an agent had converted money from a homeowner's association. That act had nothing to do with the operation of the agent's insurance business.

4. The Court in that case found that it was not related to the conduct of his business and thus could not be a basis for refusing to renew a license.

5. In *Parkview Hospital, Inc. vs. American Family Insurance*, 151 N.E.3d 1218, 1225 (Ind. Ct. App. 2020), the Court found that a judgment rendered without personal jurisdiction is void. *Id.* at 1225. Thus, the action of the Department of Insurance can never be reasonable if it is something that cannot be considered by the Department. Accordingly, Petitioner feels that this reason, in addition to the previous filing, justifies a determination that the Commissioner of the Department of Insurance should be directed to issue a renewal of Petitioner's license.

WHEREFORE, Petitioner prays that the Department of Insurance should be directed to issue a renewal of Petitioner's License, together with all other just and proper relief in the premises.

/s/ Douglas E. Johnston

Douglas E. Johnston, #5031-02
TOURKOW, CRELL, ROSENBLATT
& JOHNSTON
127 W. Berry St., Ste. 1200
Fort Wayne, IN 46802
(260) 426-0545
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I did, on this 25th day of September, 2023 deliver a true and exact copy of this pleading to all counsel of record, namely:

Samantha Aldridge

/s/ Douglas E. Johnston

Douglas E. Johnston

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
)
Peter J. Samaras)
5414 Thornbriar Lane)
Fort Wayne, IN 46835)
)
Respondent.)
)
Type of Agency Action: Enforcement)
)
License Number: 1712470)

CAUSE NO.: 20287-AG21-0914-177

OBJECTION TO ORDER

COMES NOW Petitioner, Peter J. Samaras, by counsel and files his Objection to the
Administrative Order, as follows:

1. This matter resulted in an Order being issued on September 8, 2023.
2. The period of time for objection expires on September 25, 2023, and thus this objection is timely filed by Petitioner.
3. Among other things, the Judge found that the Petitioner did not use fraudulent, coercive or dishonest practices and did not demonstrate incompetence or untrustworthiness.
4. Notwithstanding that finding, the Judge found that Petitioner was irresponsible in not paying a default judgment against him.
5. The undisputed evidence at the hearing was that Petitioner had no contact to satisfy due process requirements for South Carolina to obtain personal jurisdiction over the Petitioner. Thus the "judgment" in South Carolina is void as a matter of law.
6. Accordingly, where the evidence established that the South Carolina judgment did not satisfy minimum contacts to obtain jurisdiction over the Petitioner, there is no sum of money due or owing by Petitioner.
7. Moreover, as noted in the evidence, the judgment was for a disgorgement of commissions, and not anything to do with the clients of Petitioner. The only evidence was that the disgorgement was more in the form of a punitive act against Petitioner, as opposed to a restorative act to remedy harm.

8. Additionally, the undisputed evidence was that Petitioner suffered severe health issues including cancer, and the impact of that is direct evidence of him not being irresponsible.

9. The actions of the Department in refusing to renew a license is not reasonable, under these circumstances.

WHEREFORE, Petitioner prays that the Department enter an Order directing the Department to renew the license of Petitioner, together with all other just and proper relief in the premises.

/s/ Douglas E. Johnston

Douglas E. Johnston, #5031-02
TOURKOW, CRELL, ROSENBLATT
& JOHNSTON
127 W. Berry St., Ste. 1200
Fort Wayne, IN 46802
(260) 426-0545
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I did, on this 25th day of September, 2023 deliver a true and exact copy of this pleading to all counsel of record, namely:

Samantha Aldridge

/s/ Douglas E. Johnston

Douglas E. Johnston

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

DOI CAUSE NO.: 20287-AG21-0914-177

ADMINISTRATIVE CAUSE NO.: DOI-2210-002386

IN THE MATTER OF:)

Peter J. Samaras)

5414 Thornbriar Lane)

Fort Wayne, IN 46835)

Petitioner.)

Type of Agency Action: Enforcement)

License Number: 1712470)

DEPARTMENT'S OBJECTION TO NON-FINAL ADMINISTRATIVE DECISION

Comes now the Enforcement Division of the Indiana Department of Insurance ("Department") by counsel, Samantha Aldridge, to object to the Non-Final Administrative Decision filed on September 8, 2023 and in support of such objections shows the Commissioner of the Indiana Department of Insurance ("Commissioner") the following:

1. On October 6, 2022 the Commissioner issued her Administrative Order Notice of Nonrenewal of License against Peter J. Samaras ("Petitioner") due to Petitioner's involvement in a Ponzi scheme and sale of unregistered securities which involved using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere in violation of Code § 27-1-15.6-12(b)(8).

2. On May 15, 2023, an evidentiary hearing ("Hearing") was held on this matter via telephonic conference. Petitioner appeared telephonically and by Counsel Doug Johnston. The

Department appeared telephonically by Counsel Samantha Aldridge and former Senior Investigator Calla Dain.

3. On June 12, 2023, the Department filed Proposed Findings of Fact, Conclusions of Law, and Recommended Order.

4. On September 8, 2023, Administrative Law Judge("ALJ") Carrie Ingram issued her Non-final Administrative Decision ("Recommended Order").

5. The September 8, 2023 Order operates as the Recommended Order in the above-captioned matter under Indiana Code § 4-21.5-3-27.

6. The "Procedural History" section of the Recommended Order subparagraph i lists Respondent's Exhibit 3 as "Order for case number 6:20-cv-03728-BHH". The description of Exhibit 3 is the same as the description, and contents, of Exhibit 2. Exhibit 3, as admitted at Hearing, is an E-mail exchange from Petitioner to Andrew Stewart dated February 23, 2021. The citations to "Exhibit 3" in the Recommended Order are therefore unclear, appearing in substance to refer to Exhibit 2 as cited in "Findings of Fact" paragraph four.

7. The Department objects to the Recommended Order Conclusions of Law paragraph eight.

8. The "Conclusions of Law" section of the Recommended Order in paragraph eight states:

Petitioner's practices were not fraudulent, coercive, or dishonest, and do not demonstrate incompetence or untrustworthiness. Petitioner offered a product to his clients that he believed to be an annuity, which is not a security. Petitioner has offered previous clients annuities. Petitioner was unaware that the FIP products were unregistered securities and as soon as he found out, he stopped offering the product. There's no evidence that Petitioner used fraud, coercion or dishonesty in his practice to get his clients to purchase the FIP products.

8. Annuities can be securities subject to the registration requirements of the Securities and Exchange Commission ("SEC). Variable annuities have been found to not be contracts of insurance, not exempt, and must be registered with the SEC. *SEC v. VARIABLE ANNUITY LIFE Ins. CO. OF Am.*, 359 U.S. 65, 79 S. Ct. 618 (1959). To the extent the ALJ finds annuities are not a security, the Department objects.

9. Further, Petitioner is required by Indiana Code § 27-1-15.6-19.5(b)(2) to have adequate knowledge of an annuity product to recommend the annuity product. Petitioner's lack of understanding that the products in question were unregistered securities demonstrates Petitioner's incompetence in understanding the annuity products Petitioner sold. To the extent the ALJ finds Petitioner did not demonstrate incompetence in the conduct of business in Indiana or elsewhere in violation of Indiana Code § 27-1-15.6-12(b)(8), the Department objects.

9. This Objection is being filed with the Commissioner within fifteen (15) days from the date of the filing of the Recommended Order pursuant to Indiana Code § 4-21.5-3-29(d).

WHEREFORE, the Department's Enforcement Division by its counsel, initiates this Objection to the Recommended Order proposed by the Administrative Law Judge and respectfully requests that the Commissioner adopt Findings of Fact and Conclusions of Law consistent with these objections.

Respectfully submitted,

/s/ Samantha Aldridge
Samantha Aldridge, Attorney No. 35162-49
Department of Insurance

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Objection to Recommended Order has been served upon Petitioner's Counsel in the above-captioned proceeding via email on this 22nd day of September.

Douglas Johnston, Attorney for Petitioner- djohnston@tcrlaw.com

/s/ Samantha Aldridge
Samantha Aldridge, Attorney No. 35162-49
Department of Insurance

Distribution:

Douglas Johnston, Attorney for Petitioner- djohnston@tcrlaw.com

Samantha Aldridge, Attorney for the Department- saldrige@idoi.in.gov

Dawn Bopp, Indiana Department of Insurance- dbopp@idoi.in.gov

Office of Administrative Law Proceedings- OALP@oalp.in.gov



ISSUED:

September 8,
2023

**STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

**Peter Samaras,
Petitioner,**

v.

**Department of Insurance,
Respondent.**

Administrative Case Number: DOI-2210-002386

Ultimate Authority: Commissioner of the Department of Insurance

NON-FINAL ADMINISTRATIVE DECISION

The Administrative Law Judge (ALJ) Carrie Ingram, having heard the evidence and arguments presented in this matter, now issues this Non-Final Order addressing the decision by the Department of Insurance (DOI) to not renew Petitioner's resident insurance producer license number 1712470. This decision is favorable to the Respondent, DOI. Any aggrieved party may appeal this decision. Appeal instructions are at the end of this document.

Jurisdiction

The ALJ assigned to this matter by the Director of the Office of Administrative Law Proceedings (OALP), *see* Ind. Code § 4-15-10.5-13, has jurisdiction over this case pursuant to Indiana Code § 4-15-10.5-12, which gives OALP jurisdiction over agency administrative actions subject to the Indiana Administrative Orders and Procedures Act at Indiana Code Art. 4-21.5 (AOPA) or "any other statute that requires or allows the office to take action." The OALP has jurisdiction over this case because this case is governed by AOPA.

Issue

The issue in this case is: Whether Petitioner's resident insurance producer license should be renewed.

Procedural History

1. On November 2, 2022, the Petitioner requested administrative review of the Department of Insurance's decision to not renew his resident insurance producer license.

2. An evidentiary hearing was held on this matter on May 15, 2023, at 1:30 PM via telephonic conference. At the evidentiary hearing, Peter Samaras appeared telephonically and by Counsel Doug Johnston. The Department of Insurance (DOI) appeared telephonically by Counsel Samantha Aldridge and Senior Investigator Calla Dain.
3. The following Exhibits were offered by the Parties and admitted at the Administrative Hearing by the ALJ:
 - a. Petitioner's Exhibit A, Administrative Order Notice of Nonrenewal of License (3 pages).
 - b. Petitioner's Exhibit B, Email from Doug Johnston to Taylor Peycha, dated September 16, 2021 (2 pages).
 - c. Petitioner's Exhibit C, Future Income Payments, LLC, Producer Marketing Agreement (2 pages).
 - d. Petitioner's Exhibit D, Email from Joe Hipp, Future Income Payments, LLC, to Peter Samaras dated April 12, 2016. (2 pages).
 - e. Petitioner's Exhibit E, Stephen Foster Materials (6 pages).
 - f. Petitioner's Exhibit F, Documents and Emails concerning Stephen Foster's resident insurance producer license (38 pages).
 - g. Respondent's Exhibit 1, Complaint for case number 6:20-cv-02624-BHH (11 pages).
 - h. Respondent's Exhibit 2, Order for case number 6:20-cv-03728-BHH (4 pages).
 - i. Respondent's Exhibit 3, Order for case number 6:20-cv-03728-BHH (4 pages).
 - j. Respondent's Exhibit 4, Email correspondence between Peter Samaras and Andrew Steward (4 pages).
4. Peter Samaras and Calla Dain testified at the evidentiary hearing.

Findings of Fact

1. Petitioner became a licensed resident producer license on April 12, 1986, and has had no previous disciplinary actions taken against him with regards to his license. See testimony of Petitioner.
2. Petitioner is not a registered securities broker and therefore cannot sell securities. See testimony of Petitioner.
3. In 2016, Petitioner attended an event with financial and insurance professionals. Joe Hipp from Future Income Payments (FIP) presented information about FIP products. See testimony of Petitioner.
4. The products sold by FIP were unregistered securities. See Exhibit 3.

5. FIP told Petitioner that these were not securities and Petitioner was unaware that the FIP products were unregistered securities. Petitioner believed these products to be annuities, which Petitioner has offered to his clients in the past. Petitioner believed FIP was a credible company that provided valid and legitimate products. See testimony of Petitioner.
6. Petitioner signed a contract to promote FIP products to his clients in exchange for a commission of a one-time fee paid by FIP for each client who purchased a product from FIP. See Exhibit C and testimony of Petitioner.
7. Petitioner provided a few of his clients a product provided by FIP involving a five-year investment that provided immediate monthly income. See Exhibit 3.
8. Petitioner received \$42,867.39 in commission from the sale of FIP Products. See Exhibit 4.
9. For a few years, the clients received regular monthly payments. See Exhibit 3.
10. In spring 2018, the clients' monthly payments ceased to be paid. See Exhibit 3.
11. When the clients stopped getting their monthly payments they reached out to Petitioner. Petitioner contacted FIP who told Petitioner that the missed monthly payment would be made up the following month. See testimony of Petitioner.
12. The clients did not receive any additional monthly payments from FIP and Petitioner discovered that the owner of FIP absconded with all the reserves. See Exhibit 3.
13. Petitioner stopped promoting the FIP products after he found out that FIP had stopped making payments to clients. See testimony of Petitioner.
14. FIP and its owner Scott Kohn, were criminally charged regarding the scheme run through FIP. See Exhibit 4.
15. Beattie Ashmore was a court appointed Receiver that was tasked with the responsibility of locating, managing, recouping, and distributing assets of Kohn and FIP's scheme associated with their criminal case. See Exhibit 4
16. On October 23, 2020, Ashmore filed a Complaint against Petitioner in the US District Court for the District of South Carolina Greenville Division. The Complaint alleged that Petitioner was part of a Ponzi scheme with FIP and requested a judgment in the amount of \$42,867.39, which was equal to the commission Petitioner received from the clients referred to FIP. See Exhibit 4.
17. Petitioner has never conducted business in the state of South Carolina and therefore did not respond or otherwise answer the Complaint. On February 2, 2021, a Default Judgment was entered against Petitioner ordering him to pay \$42,867.39. to Ashmore in capacity as the Receiver. See Exhibit 2 and testimony of Petitioner.

18. Petitioner has not paid or attempted to make payments on the \$42,867.39 that he has been ordered to pay. See testimony of Petitioner.
19. Petitioner's resident producer license was to expire on October 31, 2022. Petitioner applied to renew his license, which was denied by DOI because of his involvement with FIP.
20. Two other licensed Indiana resident insurance producers also recommended FIP products and received commissions on the sale of those products. When both of those producers applied for renewal of their licenses, one's application was denied and the other was offered a civil penalty to have his license renewed. See Exhibit E and testimony of Calla Dain.

Conclusions of Law

1. DOI is responsible for licensing insurance producers who practice in the State of Indiana. Ind. Code § 27-1-15.6
2. OALP has jurisdiction over both the subject matter and the parties to this action and the Commissioner of DOI is the ultimate authority. Ind. Code § 27-1-15.6-12(d); Ind. Code §§ 4-15-10.5-12 and 13.
3. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, Ind. Code § 4-21.5-3. Ind. Code § 27-1-15.6-12(d).
4. The person requesting an agency act has the burden of persuasion and the burden of going forward. Ind. Code § 4-21.5-3-14(c). Petitioner requests that DOI renew his license, therefore Petitioner bears the burden of proof.
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. Despite the *de novo* review, Indiana Code 27-1-15.6-12(d) limits the ALJ's review to a determination of whether the Commissioner's actions were reasonable.
7. The Commissioner may refuse to renew a resident insurance producer's license if for "[u]sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere." Ind. Code § 27-1-15.5-12(b)(8).

8. Petitioner's practices were not fraudulent, coercive, or dishonest, and do not demonstrate incompetence or untrustworthiness. Petitioner offered a product to his clients that he believed to be an annuity, which is not a security. Petitioner has offered previous clients annuities. Petitioner was unaware that the FIP products were unregistered securities and as soon as he found out, he stopped offering the product. There's no evidence that Petitioner used fraud, coercion or dishonesty in his practice to get his clients to purchase the FIP products.
9. It is reasonable for DOI to conclude that Petitioner demonstrated financial irresponsibility in the conduct of business. Since 2021, Petitioner has a default judgment against him for \$42,867.39. Petitioner has not made any attempts to seek relief from that judgment or to make payments on the judgment.
10. Petitioner claims that DOI's action violates the equal protection clauses of both the United States and Indiana Constitutions. See US Const. amend. XIV §1 and Ind. Const. art. I, §23. Little weight is given to this argument. There was mention of two other individuals who were involved in the FIP scheme. Both of those two individuals had different outcomes and one of those outcomes was the same as Petitioner's.
11. Petitioner has not met his burden of proving that the Commissioner's decision not to renew his license was unreasonable.

Decision and Order

In consideration of the foregoing, Findings of Fact and the Conclusions of Law as stated, the ALJ now recommends that the Commissioner AFFIRM her decision to deny Petitioner's application to renew his resident producer license.

So ordered on: September 8, 2023.



Administrative Law Judge
Carrie Ingram

Appeal Rights

This order is not final. This matter is now before the ultimate authority, the Commissioner of the Department of Insurance who has the final authority over this matter and shall review this Nonfinal 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.

Distribution:

Petitioner, Peter Samaras, sent via e-mail at djohnston@tcrlaw.com

Respondent, DOI, sent via e-mail at saldrige@idoi.in.gov

Ultimate Authority, Commissioner of DOI, sent via e-mail at DBopp@idoi.in.gov

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

DOI CAUSE NO.: 20287-AG21-0914-177

ADMINISTRATIVE CAUSE NO.: DOI-2210-002386

IN THE MATTER OF:)

Peter J. Samaras)

5414 Thornbriar Lane)

Fort Wayne, IN 46835)

Petitioner.)

Type of Agency Action: Enforcement)

License Number: 1712470)

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

Administrative Law Judge (“ALJ”) Carrie T. Ingram, having considered and reviewed all of the evidence, will now render a decision in the matter of Peter Samaras (“Petitioner”). This matter came to be heard by the ALJ on April 27, 2023, at 1:00 pm via audio conferencing conducted by the Office of Administrative Law Proceedings.

The Enforcement Division of the Indiana Department of Insurance (“Department”) was represented by counsel, Samantha Aldridge. Petitioner appeared via audio conferencing and was represented by counsel, Douglas Johnston. 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 her Recommended Order.

FINDINGS OF FACT

1. Petitioner was licensed with the Department, holding resident producer license number 1712470 from April 12, 1986, through October 6, 2022, when his license was nonrenewed by Commissioner's Order.

2. Petitioner is not a registered securities broker and is not licensed to sell any products other than insurance products. (Hearing Transcript, pg. 43-44)

3. Petitioner signed a contract to promote Future Income Payments, LLC ("FIP") products to his clients in exchange for commissions. (Hearing Transcript pg. 26-27; Department's Exhibit 4)

4. On or about October 23, 2020, a civil action was filed against Respondent in United States District Court for the District of South Carolina Greenville Division alleging Petitioner's participation in a Ponzi scheme involving the sale of unregistered securities related to Future Income Payments, LLC. (Department's Exhibit 4)

5. On or about February 2, 2021, the United States District Court for the District of South Carolina entered a Default Judgment ordering Petitioner to disgorge forty-two thousand eight hundred sixty-seven dollars and thirty-nine cents (\$42,867.39) in commissions collected from the sale of unregistered securities. (Department's Exhibit 2)

6. Petitioner has made no effort to disgorge the commissions he received from the sale of fraudulent FIP products to his clients, despite the Default Judgment against him. (Hearing Transcript, pg. 54)

7. Applicant submitted six (6) exhibits at the hearing. Exhibit A is the Administrative Order and Notice of License Denial. Exhibit B was admitted over Department's objections for lack of foundation, hearsay, and advocate-witness violations under Indiana Rule of Professional

Conduct 3.7 as Exhibit B is wholly the testimony of Petitioner's counsel, Douglas Johnston who was not called as a witness at hearing. Exhibit B is an email from Douglas Johnston to Taylor Peycha dated September 15, 2021. Exhibit C, admitted over Department's objections for lack of foundation and hearsay, is the FIP Producer Marketing Agreement. Exhibit D, admitted over Department's objections for lack of foundation and hearsay, is an email chain dated April 12, 2016. Exhibit E, admitted over Department's objection for relevancy, is written communication dated September 15, 2021 from Petitioner's counsel, Douglas Johnston to the Department regarding a different client Stephen Foster and Stephen Foster's obituary published March 20, 2022. Exhibit F, admitted over Department's objection under Indiana Rule of Evidence 408 as it contains settlement negotiations and is immaterial, is a packet with emails from Petitioner's counsel and other materials related to deceased client Stephen Foster.

8. The Department admitted five (5) exhibits at the hearing. Exhibit 1 is the civil complaint against Adam Sutton. Exhibit 2 is the Default Order entered by the United State District Court for the District of South Carolina Greenville Division against Petitioner. Exhibit 3 is an email exchange between Petitioner and Andrew Steward. Exhibit 4 is the civil complaint against Petitioner. Exhibit 5 is the Nonrenewal Order against Adam Sutton.

9. 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 refuse to issue or renew an insurance producer's license, due to a number of factors.

4. Indiana Code § 27-1-15.6-12(b)(8) provides, in part, that the Commissioner may refuse to renew an insurance 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.

5. Petitioner's participation in a Ponzi scheme, selling unregistered securities through FIP without a securities license and further refusal to remediate the victims with any attempt at repayment of commissions demonstrates incompetence, untrustworthiness, and financial irresponsibility in violation of Indiana Code § 27-1-15.6-12(b)(8).

6. The Sutton case is distinguishable from Petitioner's case in that Sutton agreed to a plan to repay the commissions he took for the sale of FIP products. In contrast, Petitioner has not made any attempts to repay Petitioner's ill-gotten commissions. Despite those mitigating circumstances, Sutton nonetheless had his license nonrenewed by Commissioner, as the Department has requested here. (Department's Exhibit 5)

7. Petitioner's contention that his nonrenewal violates the Equal Protection Clause fails because he has not identified a similarly situated person who was treated differently from Petitioner. *Melton v. Ind. Ath. Trainers Bd.*, 156 N.E.3d 633, 661 (Ind. Ct. App. 2020). His reliance on the Foster case is inapplicable as no administrative action was taken by the Department in that case prior to the agent's death. Moreover, Petitioner's attempts to introduce evidence from settlement negotiations in other cases are improper under Ind. R. Evid. 408.

8. The Commissioner did act against Sutton, for his similar role to Petitioner in the FIP cases. Sutton took mitigating steps that Petitioner has not taken; Sutton entered into an agreement

to repay the commissions gained from the Ponzi scheme. The reasonable action taken against Sutton was nonrenewal, the same action sought by the Department in the instant case which has no mitigating factors.

9. Petitioner's fraudulent, dishonest practices and incompetence, untrustworthiness, and financial irresponsibility under Indiana Code § 27-1-15.6-12(b)(8) justifies nonrenewal of Petitioner's resident insurance producer license.

10. 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. Here, Petitioner is requesting that the Department renew his resident producer license and, therefore, bears the burden.

11. Pursuant to Indiana Code § 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Petitioner failed to meet his burden of proving that the Commissioner's decision was unreasonable.

12. 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:

The nonrenewal of Petitioner's resident producer license for license #1712470 shall be
AFFIRMED.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2023.

Carrie T. Ingram
Administrative Law Judge

Distribution:

Douglas Johnston
Tourkow, Crell, Rosenblatt & Johnston
127 West Berry St., Suite 1200
Fort Wayne, IN 46802

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 20287-AG21-0914-177

IN THE MATTER OF:)
)
Peter J. Samaras)
5414 Thornbriar Lane)
Fort Wayne, IN 46835)
)
Respondent.)
)
Type of Agency Action: Enforcement)
)
License Number: 1712470)

FILED

OCT 06 2022

STATE OF INDIANA
DEPT. OF INSURANCE

ADMINISTRATIVE ORDER
NOTICE OF NONRENEWAL OF LICENSE

The Indiana Department of Insurance ("Department"), pursuant to Indiana Code § 4-21.5-1 *et seq.*, and Indiana Code § 27-1-15.6-12, hereby gives notice to Peter J. Samaras, ("Respondent") of the following Administrative Order:

1. Respondent is a licensed resident insurance producer, holding license number 1712470 since April 12, 1986.
2. Respondent's license expires on October 31, 2022.
3. Respondent is not a registered securities broker and is not licensed to sell any products other than insurance products.
4. On or about October 23, 2020, a civil action was filed against Respondent in United States District Court for the District of South Carolina Greenville Division alleging Respondent's participation in a Ponzi scheme involving the sale of unregistered securities.
5. On or about February 2, 2021, the United States District Court for the District of South Carolina issued a Default Judgment ordering Respondent to disgorge forty-two thousand

eight hundred sixty-seven dollars and thirty-nine cents (\$42,867.39) in commissions collected from the sale of unregistered securities.

6. Indiana Code § 27-1-15.6-12(b)(8) provides, in part, that the Commissioner may refuse to renew an insurance 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.

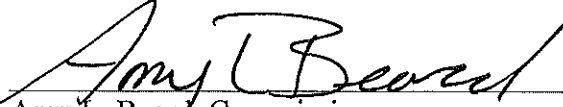
7. Indiana Code § 27-1-15.6-12(d) requires the Commissioner to notify a licensee of the reason for the nonrenewal of her license. This Order serves as that notice.

8. The Commissioner further notifies Respondent that, pursuant to Indiana Code § 27-1-15.6-12(d), Respondent may, within sixty-three (63) days of the mailing of this Order, make a written demand upon the Commissioner for a hearing to determine the reasonableness of this action. Such a hearing shall be held within thirty (30) days from the date of receipt of Respondent's written demand.

9. This is considered an administrative action by the Indiana Department of Insurance. If you choose to appeal this administrative action, please follow the aforementioned instructions. Subsequently, after the Department has received your written request for a hearing, the State of Indiana Office of Administrative Law Proceedings ("OALP") will assign an administrative law judge to preside over this matter, and you will receive more information from OALP to begin the administrative process.

WHEREFORE, based on the foregoing, the Commissioner of Insurance hereby notifies Respondent that **his license shall not be renewed** due to his participation in a Ponzi scheme.

10-6-22
Date Signed


Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Victoria Hastings, Attorney
ATTN: Calla Dain, Insurance Investigator
Indiana Department of Insurance
311 West Washington St., Suite 103
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Peter J. Samaras
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