

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO: 22505-AG23-0705-093

IN THE MATTER OF:)

Richard Whittenberger)
1129 Hartzler St)
Warsaw, IN 46580)

Respondent.)

Type of Agency Action: Enforcement)

License Number: 3342795)

FILED

JAN 05 2024

STATE OF INDIANA
DEPT. OF INSURANCE

ADMINISTRATIVE ORDER AND
NOTICE OF NONRENEWAL OF LICENSE

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

1. Respondent is a licensed resident insurance producer holding license number 3342795 since May 29, 2018.
2. Respondent's license expired March 31, 2023.
3. On May 28, 2022, Respondent was charged with Domestic Battery Resulting in Moderate Bodily Injury, a Level 6 Felony, in the State of Indiana.
4. On August 10, 2022, Respondent waived his initial hearing. Respondent failed to disclose Respondent's criminal prosecution within (30) days to the Department.
5. On March 18, 2023, Respondent submitted a renewal application and disclosed, for the first time, Respondent's then pending criminal prosecution.

6. On May 30, 2023, Respondent was convicted of Domestic Battery Resulting in Moderate Bodily Injury, a Level 6 Felony, in the State of Indiana.
7. On September 26, 2023 the Commissioner issued her Final Order approving the Agreed Entry wherein Respondent agreed a two (2) year probationary period and to pay a two hundred fifty-dollar (\$250) civil penalty within thirty (30) days after the Commissioner signed the Final Order.
8. Respondent failed to pay the agreed civil penalty within thirty (30) days of the September 26, 2023 Final Order. As of the date of filing, Respondent has not paid the civil penalty.
9. Indiana Code § 27-1-15.6-12(b)(6) provides, in part, that the Commissioner may refuse to renew an insurance producer's license for having been convicted of a felony.
10. Indiana Code § 27-1-15.6-12(b)(2)(A) provides, in part, that the Commissioner may refuse to renew an insurance producer's license for violating an insurance law.
11. Indiana Code § 27-1-15.6-17(b) is an insurance law which provides, in part, that not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.
12. Indiana Code § 27-1-15.6-12(b)(2)(D) provides, in part, that the Commissioner may reuse to renew an insurance producer's license for violating an order of an insurance commissioner.

13. Indiana Code § 27-1-15.6-12(d) requires the Commissioner to notify a licensee of the reason for the nonrenewal of Respondent's license. This Order serves as that notice.
14. 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.
15. 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 **Respondent's license shall not be renewed** due to Respondent's failure to timely report Respondent's criminal prosecution, Respondent having been convicted of a felony and for violating an order of the Commissioner.

01.05.2024
Date Signed



Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Samantha Aldridge, Attorney
ATTN: Sara Tolliver, Insurance Investigator
Indiana Department of Insurance
311 West Washington St, Suite 103
Indianapolis, IN 46204-2787

Richard Whittenberger
1129 Hartzler St.
Warsaw, IN 46580

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

**BEFORE THE INDIANA
COMMISSIONER OF INSURANCE**

CAUSE NO.: 22505-AG23-0705-093

IN THE MATTER OF:)
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Richard Whittenberger)
1129 Hartzler St)
Warsaw, IN 46580)
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Respondent.)
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Type of Agency Action: Enforcement)
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License #: 3342795)

FILED

SEP 26 2023

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

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

The Commissioner, after reviewing the Agreed Entry, which imposes a civil penalty in the amount of two hundred fifty dollars (\$250) and places Respondent on a probation period for two (2) years due to Respondent’s failure to timely report that on May 30, 2023, Respondent was convicted of Domestic Battery Resulting in Moderate Bodily Injury, a Level 6 Felony, in the State of Indiana, 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 as if fully set forth herein and approves and adopts in full the Agreed Entry as a resolution of this matter.

IT IS THEREFORE ORDERED by the Commissioner as follows:

1. Respondent's resident producer license shall be renewed contingent upon timely payment of a civil penalty. Respondent shall pay a civil penalty in the amount of two hundred fifty dollars (\$250) within thirty (30) days from the date of this Final Order. Failure to pay the fine will result in the Department seeking immediate revocation of Respondent's license.
2. Respondent shall be placed on a probation period for two (2) years beginning the date the Commissioner signs the Final Order. During the probationary period, Respondent shall submit a current list of appointments every six (6) months from the date of this Final Order via email at: Enforcement@idoi.in.gov.
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.

9/26/23
Date Signed



Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Samantha Aldridge
ATTN: Sara Tolliver, Investigator
INDIANA DEPARTMENT OF INSURANCE
311 West Washington Street, Suite 300
Indianapolis, Indiana 46204-2787

Richard Whittenberger
1129 Hartzler St
Warsaw, IN 46580

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

**BEFORE THE INDIANA
COMMISSIONER OF INSURANCE**

CAUSE NO.: 22505-AG23-0705-093

IN THE MATTER OF:

**Richard Whittenberger
1129 Hartzler St
Warsaw, IN 46580**

Respondent.

Type of Agency Action: Enforcement

License #: 3342795

FILED

SEP 26 2023

**STATE OF INDIANA
DEPT. OF INSURANCE**

AGREED ENTRY

This Agreed Entry is executed by and between the Indiana Department of Insurance ("Department"), by counsel Samantha Aldridge, and Richard Whittenberger ("Respondent"), a resident insurance producer, to resolve all issues in the above cause number. This Agreed Entry is subject to the review and approval of the Department's Commissioner, Amy L. Beard ("Commissioner").

WHEREAS, Respondent is a licensed resident insurance producer, holding license number 3342795 since May 29, 2018;

WHEREAS, Respondent's resident producer license expired March 31, 2023;

WHEREAS, Respondent submitted a renewal application for resident producer license in the State of Indiana on or about March 18, 2023;

WHEREAS, Respondent failed to timely report that on May 28, 2022, Respondent was charged with Domestic Battery Resulting in Moderate Bodily Injury, a Level 6 Felony, and Strangulation, a Level 6 Felony, in the State of Indiana;

WHEREAS, Respondent failed to timely report that on November 30, 2022, a Pretrial Conference was held;

WHEREAS, Respondent was convicted on May 30, 2023, for Domestic Battery Resulting in Moderate Bodily Injury, a Level 6 Felony, in the State of Indiana;

WHEREAS, Indiana Code §27-1-15.6-12(b)(2)(A) states, in part, that the Commissioner may levy a civil penalty against an insurance producer and place an insurance producer on probation for violating an insurance law;

WHEREAS, Respondent's conduct, as alleged herein, constitutes a violation of Indiana Code §27-1-15.6-17(b) which states, in part, not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction;

WHEREAS, Indiana Code §27-1-15.6-12(b)(6) states, in part, that the Commissioner may levy a civil penalty against an insurance producer and place an insurance producer on probation for having been convicted of a felony; 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 Respondent's best interest to enter into this Agreed Entry. As such,

Respondent acknowledges that Respondent 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's resident producer license shall be renewed contingent upon Respondent's timely payment of the civil penalty. Respondent shall pay a civil penalty in the amount of two hundred fifty dollars (\$250) to the Department within thirty (30) days after the Commissioner signs the Final Order adopting this Agreed Entry. Failure to timely pay the civil penalty may result in the Department seeking immediate revocation of Respondent's license.

8. Respondent 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 via email at: Enforcement@idoi.in.gov.
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 Respondent's choosing, at Respondent's 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 Respondent 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 Respondent may be required to report to other jurisdictions in which he is licensed and on future licensing applications.


9/14/23

Date Signed


Samantha Aldridge, Attorney #35162-49
Indiana Department of Insurance

8/26/23

Date Signed


Richard Whittenberger,
Respondent

STATE OF INDIANA

COUNTY OF

Kosciusko

SS:



Before me a Notary Public for Kosciusko County, State of Indiana, personally appeared Richard Whittenberger, and being first duly sworn by me upon Richard Whittenbergers' oath, says that the facts alleged in the foregoing instrument are true.

Signed and sealed this 26 day of AUGUST, 2023.

Signature

[Handwritten Signature]

Printed

LM BROWN

My Commission expires:

08/21/2030

County of Residence:

Kosciusko