STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

FILED: Oct 17, 2024

Indiana Department of Insurance, Petitioner, v. Brandie Byrd, Respondent	Administrative Case No.: DOI-2408-001941

CORRECTED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

An evidentiary hearing was held on this matter on September 11, 2024, at 9:15 am EST via video conference. Brandie Byrd, Respondent, did not appear at the evidentiary hearing. The Indiana Department of Insurance (IDOI), Petitioner, appeared by counsel Joseph Bossinger. The undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings (OALP) began the hearing at 9:15 am EST, at which time, Petitioner moved for Respondent to be defaulted. The ALJ has considered the motion, and hereby GRANTS Respondent's motion based on the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. In the *Order Granting Continuance and Resetting Evidentiary Hearing* ("Order") issued on August 19, 2024, an evidentiary hearing by video conference was scheduled for September 11, 2024, at 9:00 am EST.

2. On September 11, 2024, after allowing Respondent fifteen (15) minutes to join the conference line, the evidentiary hearing was convened at 9:15 am EST.

3. Petitioner was present by counsel, and Respondent was not present in person or by counsel.

4. The evidentiary hearing video conference line remained open from 9:00 am EST to approximately 9:30 am EST, and Respondent did not appear.

5. Petitioner entered the following evidence into the record:

    a. Petitioner Exhibit 1, 2006 Producer Application (5 pages).
    b. Petitioner Exhibit 2, Texas Order Deferring Adjudication of Guilt (5 pages).
    c. Petitioner Exhibit 3, 2020 Producer Application (6 pages).

d. Petitioner Exhibit 4, Texas Judgment Adjudicating Guilt (3 pages).
e. Petitioner Exhibit 5, 2023 License Renewal (4 pages).
f. Petitioner Exhibit 6, Florida Consent Order (7 pages).
g. Petitioner Exhibit 7, Florida Order of Revocation (22 pages).
h. Petitioner Exhibit 8, Louisiana Cease and Desist Order, Summary Suspension Order and Notice of Proposed Regulatory Action and Wrongful Conduct (11 pages).
i. Petitioner Exhibit 9, California Order of Summary Revocation (4 pages).
j. Petitioner Exhibit 10, Louisiana Notice of Revocation and Notice of Fine (10 pages).
k. Petitioner Exhibit 11, Delaware Final Decision and Oder (11 pages).
l. Petitioner Exhibit 12, Indiana Findings of Fact and Suspension Order (12 pages).

6. Witness Gina Davies, Department of Insurance Investigator, hereinafter "Ms. Davies" was sworn in and testified at the hearing.

7. Petitioner moved for Respondent to be defaulted.

8. Respondent did not file a motion to continue the evidentiary hearing, and there is no information indicating that service of the Order was not perfected on Respondent.

9. A *Notice of Proposed Default Order* ("Notice") was issued on September 11, 2024.

10. In the Notice, a seven (7) day deadline for Respondent to file a motion for the case to remain open was set.

11. More than seven (7) days have passed since the deadline. Respondent did not meet the deadline. There was no motion to continue the deadline, and there is no indication that service of the Notice was not perfected on Respondent.

12. On November 3, 2005, Respondent entered into an Order Deferring Adjudication of Guity in the State of Texas (Petitioner Ex. 2).

13. On October 23, 2006, Respondent submitted an application for a Non-Resident Insurance Producer License with the State of Indiana. He did not disclose the Order Deferring Adjudication of Guity in the State of Texas in his application (Pet. Ex. 1, Ms. Davies testimony).

14. On February 14, 2008, the State of Texas issued a Judgment Adjudicating Gulit against Respondent for Possession of Cocaine less than one gram (Pet. Ex. 4).

15. On June 15, 2020, Respondent submitted an application for a Non-Resident Insurance Producer License with the State of Indiana. On the application, he indicated that he had not been convicted of a misdemeanor or a felony (Pet. Ex. 3, Ms. Davies testimony).

16. Per Respondent's June 15, 2020, application, his home state is Louisiana (Pet. Ex. 3, Ms. Davies testimony).

17. On June 30, 2020, a Consent Order was issued by the Director of the Division of Insurance Agent and Agency Services of the State of Florida approving a Settlement Stipulation for Consent Order entered into between Respondent and the State of Florida following an administrative proceeding regarding Respondent's insurance license (Pet. Ex. 6, Ms. Davies testimony). Respondent did not report this administrative action to the IDOI within thirty (30) days of the administrative action (Ms. Davies testimony).

18. On March 13, 2023, Respondent submitted a license renewal application to the State of Indiana. He indicated on the renewal application that he had not been involved in an administrative proceeding and that he had not been convicted of a misdemeanor or felony (Pet. Ex. 5, Ms. Davies testimony).

19. On April 10, 2023, the State of Florida revoked Respondent's nonresident insurance agent license (Pet. Ex. 7).

20. On July 20, 2023, the Insurance Commissioner of the State of California revoked Respondent's insurance license (Pet. Ex. 9). Respondent did not report this license revocation to the IDOI within thirty (30) days of the revocation (Ms. Davies testimony).

21. On August 8, 2023, the Louisiana Commissioner of Insurance issued a Cease and Desist Order, Summary Suspension Order and Notice of Proposed Regulatory Action and Wrongful Conduct against Respondent (Pet. Ex. 8).

22. On March 13, 2024, the Louisiana Department of Insurance revoked Respondent's insurance producer licenses (Pet. Ex. 10). Respondent did not report the revocation of his licenses to the IDOI within thirty (30) days of the revocation (Ms. Davies testimony).

23. On April 16, 2024, the Delaware Insurance Commissioner revoked Respondent's insurance producer license (Pet. Ex. 11). Respondent did not report the revocation of his license to the IDOI within thirty (30) days of the revocation (Ms. Davies testimony).

24. On January 18, 2024, the Commissioner of the IDOI suspended Respondent's non-resident producer license (Pet. Ex. 12).

25. On August 6, 2024, Petitioner filed a Statement of Charges seeking to revoke Respondent's nonresident insurance producer license number 508783 for a period of one (1) year and prohibit the acceptance of application(s) from Respondent for a period of one (1) year from the date of the revocation order (Statement of Charges).

CONCLUSIONS OF LAW

1. IDOI is responsible for licensing insurance producers who practice in the State of Indiana. Indiana Code § 27-1-15.6.

2. Petitioner seeks to revoke Respondent's nonresident insurance producer license number 508783 for a period of one (1) year and prohibit the acceptance of application(s) from Respondent for a period of one (1) year from the date of the revocation order (Statement of Charges).

3. OALP has jurisdiction over both the subject matter and the parties to this action and is the ultimate authority. IC § 27-1-15.6-12(d); IC §§ 4-15-10.5-12 and 13.

4. 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).

5. The person requesting an agency act has the burden of persuasion and the burden of going forward. IC § 4-21.5-3-14(c). Petitioner requests that Respondent's insurance producer license be revoked, therefore Petitioner bears the burden of proof.

6. Proceedings held before an ALJ are *de novo*, which means the ALJ does not—and may not—defer to an agency's initial determination. IC § 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." IC § 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).

7. A nonresident insurance producer license may be revoked for "providing incorrect, misleading, incomplete, or materially untrue information in a license application," IC § 27-1-15.6-12(b)(1). Respondent provided incorrect information on his license application when failed to disclose the Order Deferring Adjudication of Guity in the State of Texas in his application. He additionally provided incorrect information in his 2020 application and renewal applications when he failed to disclose further criminal and administrative actions.

8. An insurance producer license may also be revoked for "having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state," IC § 27-1-15.6-12(b)(9). Respondent had his insurance producer licenses revoked by Texas, Florida, California, and Louisiana.

9. Additionally, a nonresident insurance producer license may be revoked violating an insurance law. IC § 27-1-15.6-12(b)(2)(A).

10. The insurance laws include a requirement to report to the Commissioner any administrative action taken against the producer in another jurisdiction not more than thirty (30) days after the final disposition of a matter, a producer shall. IC § 27-1-15.6-17(a). Respondent failed to timely report to the IDOI administrative actions taken in California, Louisiana, and Delaware.

11. The insurance laws also require a nonresident producer to maintain licensure in good standing in the nonresident producer's home state. Respondent's home state is Louisiana. Respondent's insurance license in Louisiana was revoked. IC § 27-1-15.6-8(f).

12. The IDOI may revoke Respondent's nonresident producer license due to him providing incorrect information on his initial and renewal applications, his revocation of his insurance licenses in other states, his failure to maintain a license in his home state, and his violation of insurance laws.

13. Respondent failed to attend the evidentiary hearing, and therefore did not present evidence. Defaulting Respondent is appropriate pursuant to IC 4-21.5-3-24(a)(4).

14. The ALJ issued a *Notice of Proposed Default Order* as required by IC 4-21.5-3-24; however, Respondent did not file any response to it. IC 4-21.5-3-24(b).

15. The ALJ now issues this Default Order. IC 4-21.5-3-24.

FINAL DEFAULT ORDER

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now revokes Respondent's nonresident insurance producer license number 508783 for a period of one (1) year from the date of the revocation order and prohibits the acceptance of application(s) from Respondent for a period of one (1) year from the date of the revocation.

So Ordered: October 17, 2024.

Natalie Fierek
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

APPEAL RIGHTS

A person who wishes to seek judicial review of this final determination must file a petition for review in an appropriate court within 30 days of the date this Order was served. See Ind. Code §4-21.5-5-5. Guidance for calculating deadlines may be found at Indiana Code § 4- 21.5-3-2. Other requirements for a petition for judicial review may be found at Indiana Code chapter 4-21.5-5. A petition for judicial review must be served on the Office of Administrative Law Proceedings oalp@oalp.in.gov to ensure the Office prepares the record that will be filed in the court presiding over the judicial review

Distribution:
Petitioner: DOI served by Counsel, Joseph Bossinger, via email at jbossinger@idoi.in.gov
Respondent: Brandie Byrd, served via email at synergy.underwriters@gmail.com

STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

FILED: Sep 23, 2024

Indiana Department of Insurance, Petitioner, **v.** **Brandie Byrd, Respondent**	**Administrative Case No.: DOI-2408-001941**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

An evidentiary hearing was held on this matter on September 11, 2024, at 9:15 am EST via video conference. Brandie Byrd, Respondent, did not appear to the evidentiary hearing. The Department of Insurance, Petitioner, appeared by counsel Joseph Bossinger. The undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings (OALP) began the hearing at 9:15 am EST, at which time, Petitioner moved for Respondent to be defaulted. The ALJ has considered the motion, and hereby GRANTS Respondent's motion based on the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. In the *Order Granting Continuance and Resetting Evidentiary Hearing* ("Order") issued on August 19, 2024, an evidentiary hearing by video conference was scheduled for September 11, 2024, at 9:00 am EST.
2. On September 11, 2024, after allowing Respondent fifteen (15) minutes to join the conference line, the evidentiary hearing was convened at 9:15 am EST.

3. Petitioner was present by counsel, and Respondent was not present in person or by counsel.
4. The evidentiary hearing video conference line remained open from 9:00 am EST to approximately 9:30 am EST, and Respondent did not appear.
5. Petitioner entered evidence into the record and moved for Respondent to be defaulted.
6. Respondent did not file a motion to continue the evidentiary hearing, and there is no information indicating that service of the Order was not perfected on Respondent.
7. A *Notice of Proposed Default Order* ("Notice") was issued on September 11, 2024.
8. In the Notice, a seven (7) day deadline for Respondent to file a motion for the case to remain open was set.
9. More than seven (7) days have passed since the deadline. Respondent did not meet the deadline. There was no motion to continue the deadline, and there is no indication that service of the Notice was not perfected on Respondent.

CONCLUSIONS OF LAW

1. A Party may be held in default when a Party fails to "to attend or participate in a pre-hearing conference, hearing, or other later stage of the proceeding." IC 4-21.5-3-24.
2. The person requesting that an agency act has the burden of persuasion and the burden of going forward. IC 4-21.5-3-14(c). Petitioner requested that Respondent's nonresident insurance producer license be revoked, therefore Petitioner bears the burden of proof.

3. Respondent failed to attend the evidentiary hearing, and therefore did not present evidence. Defaulting Respondent is appropriate pursuant to IC 4-21.5-3-24(a)(4).

4. The ALJ issued a *Notice of Proposed Default Order* as required by IC 4-21.5-3-24; however, Respondent did not file any response to it. IC 4-21.5-3-24(b).

5. The ALJ now issues this Default Order. IC 4-21.5-3-24.

FINAL DEFAULT ORDER

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now orders that the Indiana Department of Insurance's revocation of Respondent's nonresident insurance producer license number 508783 for a period of one year from the date of the revocation order and the prohibition from the acceptance of application(s) from Respondent for a period of one (1) year from the date of the revocation order shall be AFFIRMED.

So Ordered: September 23, 2024.

Natalie Fierek
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

APPEAL RIGHTS

A person who wishes to seek judicial review of this final determination must file a petition for review in an appropriate court within 30 days of the date this Order was served. See Ind. Code §4-21.5-5-5. Guidance for calculating deadlines may be found at Indiana Code § 4- 21.5-3-2.

Other requirements for a petition for judicial review may be found at Indiana Code chapter 4-21.5-5. A petition for judicial review must be served on the Office of Administrative Law Proceedings oalp@oalp.in.gov to ensure the Office prepares the record that will be filed in the court presiding over the judicial review

Distribution:
Petitioner: DOI served by Counsel, Joseph Bossinger, via email at jbossinger@idoi.in.gov
Respondent: Brandie Byrd, served via email at synergy.underwriters@gmail.com

STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

FILED: Sep 11, 2024

Indiana Department of Insurance, Petitioner, v. Brandie Byrd, Respondent	Administrative Case No.: DOI-2408-001941

NOTICE OF PROPOSED DEFAULT ORDER

An evidentiary hearing was held on this matter on September 11, 2024, at 9:00 am EST via videoconferencing. Brandie Byrd (Respondent) did not appear at the evidentiary hearing. The Indiana Department of Insurance (Petitioner) was represented by counsel Joseph Bossinger. Administrative Law Judge (ALJ) Natalie Fierek waited until 9:15 am EST to begin the hearing, at which time, Respondent requested a default order, which the ALJ granted.

Petitioner represented Petitioner had communicated with Respondent regarding the hearing and that Respondent was aware of the scheduled hearing. The Office of Administrative Law Proceedings (OALP) had not received any returned mail or request to reschedule the evidentiary hearing from Respondent. The Respondent was notified in the Order Granting Continuance and Resetting Evidentiary Hearing issued by the undersigned ALJ on August 19, 2024, that "a party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of the proceeding, may be held in default or have a proceeding dismissed. IC 4-21.5-3-18(d)(8)."

Indiana Code 4-21.5-3-24(b) states that after the ALJ grants a request for a default "... the administrative law judge may adjourn the proceedings or conduct them without the participation of the party against whom a proposed default order was issued, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings." The evidentiary hearing on September 11, 2024, was conducted without the participation of the Respondent

The Respondent will have seven (7) days to file a motion requesting that the case remain open and stating the grounds for the request. If the ALJ does not receive a motion from Petitioner within seven (7) days, the ALJ will issue a Findings of Fact, Conclusions of Law and Default Order, finding that the agency action of revoking Respondent's nonresident insurance producer license number 508783 for a period of one (1) year and prohibiting the acceptance of application(s) from Respondent for a period of one (1) year from the date of the revocation order be upheld.

So Ordered: September 11, 2024.

Natalie Fierek

Natalie Fierek
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distribution:
Petitioner: DOI served by Counsel, Joseph Bossinger, via email at jbossinger@idoi.in.gov
Respondent: Brandie Byrd, served via email at synergy.underwriters@gmail.com

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA COMMISSIONER OF INSURANCE

CAUSE NO.: 22347-AG23-0606-072

IN THE MATTER OF:)
)
Brandie Byrd)
333 Texas St., Suite 1300)
Shreveport, LA 71101)
)
Respondent.)
)
Type of Agency Action: Enforcement)
)
Producer License Number: 508783)

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Joseph Bossinger, pursuant to Indiana Code § 4-21.5-1 et *seq.*, and Indiana Code § 27-1-15.6, files its Statement of Charges against Brandie Byrd ("Respondent") as follows:

FACTS

1. Respondent held nonresident producer license number 508783 from October 23, 2006, until October 31, 2010, when Respondent failed to renew.
2. Respondent's nonresident producer license number 508783 was reinstated by application on June 15, 2020, and is scheduled to expire on March 21, 2025.
3. Respondent was issued a felony deferral order for Possession of Cocaine Less Than One Gram, a State Jail Felony, in Harris County, Texas, on November 3, 2005.
4. Respondent was convicted of Possession of Cocaine Less Than One Gram, a State Jail Felony, in Harris County, Texas, on February 14, 2008.

5. Respondent submitted applications to the Department on October 20, 2006, June 15, 2020, and March 13, 2023.

6. On Respondent's application dated October 20, 2006, Respondent failed to disclose the November 3, 2005, felony deferral order.

7. On Respondent's application dated June 15, 2020, Respondent failed to disclose the November 3, 2005, felony deferral order and the February 14, 2008, felony conviction.

8. On Respondent's application dated March 13, 2023, Respondent failed to disclose the November 3, 2005, felony deferral order, the February 14, 2008, felony conviction, and a June 30, 2020, consent order with the Florida Office of Insurance Regulation.

9. Respondent's license was revoked by the Florida Office of Insurance Regulation on April 10, 2023, for failure to timely report other state administrative action.

10. Respondent failed to report to the Department the following administrative actions not more than thirty (30) days after the final disposition of the matter:

    a. June 30, 2020, consent order with the Florida Office of Insurance Regulation for material misstatement on an application concerning prior criminal history;

    b. August 8, 2023, summary suspension and cease and desist order by the Louisiana Department of Insurance for misappropriation of premium;

    c. August 20, 2023, license revocation by the California Department of Insurance for having been conviction of a felony and other state administrative action;

    d. March 25, 2024, license revocation by the Louisiana Department of Insurance for demonstrated lack of fitness, failure to remit premiums to insurer, and misappropriation of premium; and

    e. April 16, 2024, license revocation by the Delaware Department of Insurance for failing to timely report other state administrative action.

11. Respondent's license was suspended by the Department on January 18, 2024, for failing to timely comply with a request for a list of appointments.

12. The Department verified through the Producer Database maintained by the National Association of Insurance Commissioners on August 1, 2024, that Respondent no longer maintains licensure in good standing in Respondent's home state of Louisiana.

COUNT I

1. Averments 1 through 12 are incorporated fully herein by reference.
2. Respondent's conduct as alleged herein constitutes providing incorrect, misleading incomplete or materially untrue information in a license application and is cause for disciplinary action in accordance with Indiana Code § 27-1-15.6-12(b)(1) to include revocation of an insurance producer's license for a period of years.

COUNT II

1. Averments 1 through 12 are incorporated fully herein by reference.
2. Respondent's conduct as alleged herein constitutes having failed to report an administrative action to the commissioner within thirty (30) days and is cause for disciplinary action in accordance with Indiana Code § 27-1-15.6(b)(2)(A) and Indiana Code § 27-1-15.6-17(a) to include revocation of an insurance producer's license for a period of years.

COUNT III

1. Averments 1 through 12 are incorporated fully herein by reference.
2. Respondent's conduct as alleged herein constitutes having an insurance producer license denied, suspended or revoked and is cause for disciplinary action in accordance with Indiana

Code § 27-1-15.6-12(b)(9) to include revocation of an insurance producer's license for a period of years.

COUNT IV

1. Averments 1 through 12 are incorporated fully herein by reference.
2. Respondent's conduct as alleged herein constitutes having failed to maintain a home state license in good standing and is cause for disciplinary action in accordance with Indiana Code § 27-1-15.6(b)(2)(A) and Indiana Code § 27-1-15.6-8(f) to include revocation of an insurance producer's license for a period of years.

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

1. Issue an order revoking Respondent's nonresident insurance producer license number 508783 for a period of one (1) year;
2. Prohibit the acceptance of application(s) from Respondent for a period of one (1) year from the date of the revocation order; and
3. Grant all other relief necessary and proper in the premises.

Respectfully submitted,

Joseph Bossinger

Joseph Bossinger, Attorney, #35166-49
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

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 6th day of August, 2024.

Brandie Byrd
333 Texas St., Suite 1300
Shreveport, LA 71101

Joseph Bossinger
Joseph Bossinger, Attorney #35166-49