

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
)
)
Behram Daboo)
)
Respondent)
)
Type of Agency Action:Enforcement)
)

FILED

MAR 07 2024

STATE OF INDIANA
DEPT. OF INSURANCE

CAUSE NO.: DOI-2308-002203
22252-AG23-0613-078

FINAL ORDER

On January 16, 2024, the Administrative Law Judge, Beth A. Butsch, 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 Respondent by emailing to her email address of record.
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. Respondent's nonresident insurance producer license #3780047 is permanently REVOKED.

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 7 day of March, 2024.


Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Behram Daboo sent via email daboobehram0217@gmail.com

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



FILED: January 16, 2024

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

Administrative Cause No.: DOI-2308-002203
Underlying/State Agency Action No.: 2252-AG23-0613-078

Indiana Department of Insurance
Petitioner,

v.

Behram Daboo
Respondent.

Ultimate Authority: Indiana Department of Insurance

NON-FINAL ADMINISTRATIVE DECISION

The Administrative Law Judge (ALJ) Beth A. Butsch, having heard the evidence and arguments presented in this matter, now issues this Non-Final Order addressing the request by the Indiana Department of Insurance (DOI) to revoke Respondent's nonresident producer license. This decision is favorable to Petitioner (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 the request of the DOI to permanently revoke Respondent's nonresident insurance producer license should be granted.

Procedural History

1. On August 21, 2023, the Petitioner filed its "Statement of Charges", requesting the permanent revocation of Petitioner's nonresident insurance producer's license. The administrative complaint was forwarded to OALP on the same date.
2. On August 22, 2023, OALP issued its Notice of Assignment of ALJ and Order Setting Evidentiary Hearing. The September 18, 2023, hearing date was continued at the request of Petitioner, and a prehearing conference was scheduled for October 6, 2023.
3. Respondent did not appear at the prehearing on August 31, 2023, after being served with notice. The Petitioner appeared by counsel, Samantha Aldridge. Counsel for Petitioner represented she had not heard from Respondent and OALP did not receive a request to continue the prehearing conference or notice that service was not perfected. The evidentiary hearing was rescheduled for November 17, 2023 at 9:00 a.m.
4. Respondent did not appear at the evidentiary hearing, on November 17, 2023, after being served with notice. Petitioner appeared by counsel, Samantha Aldridge. Court reporter DeShon Smith also appeared. Counsel for Petitioner represented she had not heard from Respondent and OALP did not receive a request to continue the prehearing conference or notice that service was not perfected. The ALJ commenced the hearing at 9:15 a.m.; evidence was heard, and the hearing was concluded.
5. The following Exhibits were offered by Petitioner and admitted at the Administrative Hearing by the ALJ:
 - a. Petitioner's Exhibit 1, Aflac notice of termination of Respondent to Indiana Department of Insurance (1 Pages).
 - b. Petitioner's Exhibit 2, Aflac corporate report of investigation of Behram Daboo (4 Pages).
 - c. Petitioner's Exhibit 3, audio recording of telephone call between Heather Baker and Aflac customer service.
 - d. Petitioner's Exhibit 4, audio recording of telephone call between Lisa Carter and Aflac customer service.

- e. Petitioner's Exhibit 5, handwritten consumer complaint of Yong So to Aflac, (5 pages).
 - f. Affidavit of business records from Aflac investigator Alex McCallum for Exhibits 1 through 5.
6. Respondent did not appear or offer any exhibits.
7. The following people testified at the administrative hearing:
- a. Tina Harris, Senior Investigator, Indiana Department of Insurance, hereinafter Investigator Harris
8. After the conclusion of the presentation of its evidence, counsel for Petitioner requested a default order, which the ALJ took under advisement.
9. On November 17, 2023, a Notice of Proposed Default Order was issued to Respondent due to his failure to appear at the evidentiary hearing, giving Respondent seven (7) days to file a motion requesting the case remain open.
10. Respondent did not file a response to the Notice of Proposed Default Order after being served.
11. The ALJ has considered Petitioner's motion for a default order and hereby **GRANTS** Petitioner's motion based on the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. Respondent Behram Daboo has held a nonresident insurance producer license in the State of Indiana since March 18, 2022, holding license #3780047. Respondent sold accident and health insurance. Respondent's license is due for renewal February 28, 2025. See testimony of Investigator Harris.
2. The American Family Life Assurance Company of Columbus (Aflac) terminated Respondent from selling Aflac products on or about February 1, 2023, after conducting an internal investigation of consumer complaints against Respondent. See Petitioner's Exhibits 1 and 2.
3. Aflac terminated Respondent as an associate because their special investigations unit concluded Respondent forged consumer's signatures on insurance application forms, resulting in policies issued without consumer's knowledge, and Respondent refused to cooperate with Aflac in its fraud investigation. See Petitioner's Exhibit 1.

4. Respondent enrolled Heather Baker in insurance policies with Aflac without her knowledge or consent and misrepresented in his business records that he had met with Baker in person to complete the application. Baker called Aflac to cancel her policies and told them she had never met Respondent. See testimony of Investigator Harris and Petitioner's Exhibits 2 and 3.
5. Respondent enrolled Lisa Carter in policies with Aflac without her knowledge or consent and misrepresented in his business records that he met with Carter in person to complete the application. Carter called Aflac to cancel the policies and stated she is retired and never spoke to or met with Respondent. See Petitioner's Exhibits 2 and 4.
6. Respondent enrolled Yong So in policies with Aflac through his employer without his knowledge or consent and misrepresented in his business records that he met with So in person to complete the application. See Petitioner's Exhibits 2 and 5.
7. Yong So was billed one hundred four dollars and fifty-two cents (\$104.52) and fifty-two dollars and fifty-two cents (\$52.52) per month for a period of two months for two Aflac insurance policies that were issued without his knowledge or consent. Yong So and his employer spent hours trying to cancel the fraudulently issued policies. See Petitioner's Exhibit 5.
8. Respondent issued a total of seven insurance policies to Baker, Carter, and So without their consent. Respondent did not respond to Aflac's multiple attempts to contact him, resulting in his termination from Aflac. See Petitioner's Exhibits 1 and 2.
9. Aflac notified the Indiana Department of Insurance of Respondent's termination, and Investigator Harris was charged with investigating the matter. Harris contacted Respondent, who did not respond to the allegations of fraud and misrepresentation. See testimony of Investigator Harris.
10. Respondent sent Investigator Harris a notice of license cancellation and Harris advised Respondent the Department of Insurance would not accept a license cancellation when an investigation is pending. See testimony of Investigator Harris.

Conclusions of Law

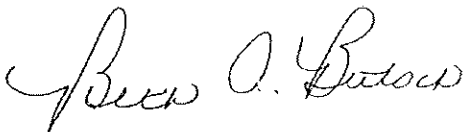
1. DOI is responsible for licensing and imposing sanctions against licensed insurance producers who practice in the State of Indiana. See IC § 27-1-15.6.
2. OALP has jurisdiction over both the subject matter and the parties to this action and the Commissioner of DOI is the ultimate authority. Ind. Code § 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 and Ind. Code § 27-1-15.6-12(d).
4. The person requesting an agency action has the burden of persuasion and the burden of going forward. Petitioner requests that DOI permanently revoke Respondent's license, therefore Petitioner bears the burden of proof. Ind. Code § 4-21.5-3-14(c).
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. Dept. 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 of Insurance may permanently revoke 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. IC § 27-1-15.6-12(b)(8).
8. Petitioner has met its burden of proving that Respondent engaged in fraudulent, coercive, and dishonest practices and demonstrated untrustworthiness in the conduct of business in Indiana. See testimony of Investigator Harris and Petitioner's Exhibits 1 through 5.

Decision and Non-final Order

In consideration of the foregoing Findings of Fact and the Conclusions of Law, the ALJ now recommends that the Commissioner of Insurance permanently revoke Respondent Behram Daboo's nonresident insurance producer license #3780047.

So ordered on: January 16, 2024



Hon. Beth A. Butsch, Administrative Law Judge
Office of Administrative Law Proceedings

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, Indiana Department of Insurance, sent to counsel Samantha Aldridge via e-mail at saldrige@idoi.in.gov

Respondent, Behram Daboo sent via e-mail at daboobehram0217@gmail.com

Deshon Smith, Court Reporter, served via email at desmith2211@gmail.com

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



FILED: November 17,
2023

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

Administrative Cause No.: DOI-2308-002203
Underlying/State Agency Action No.: 2252-AG23-0613-078

FINAL AGENCY AUTHORITY: Commissioner of the Department of
Insurance

Indiana Department of Insurance
Petitioner,

v.

Behram Daboo
Respondent.

NOTICE OF PROPOSED DEFAULT ORDER

An evidentiary hearing was held on this matter on November 17, 2023, at 9:00 am EST via video conferencing. Behram Daboo (Respondent) did not appear at the evidentiary hearing. The Indiana Department of Insurance (Petitioner) was represented by counsel Samantha Aldridge. Administrative Law Judge (ALJ) Beth A. Butsch waited until 9:15 am EST to begin the hearing, at which time, Petitioner the hearing was commenced and concluded in Respondent's absence. At the conclusion of the hearing, counsel for Petitioner requested a default order, which the ALJ took under advisement.

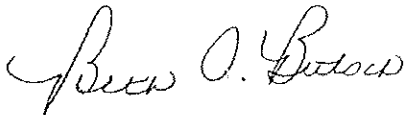
Petitioner represented that it had not heard from Respondent. The Office of Administrative Law Proceedings (OALP) served Respondent with the Order Setting Evidentiary Hearing and has not received any returned mail or request to reschedule the evidentiary hearing from Respondent. The Respondent was notified in the Combined Notice of ALJ and Filing Procedures and Order Setting Evidentiary Hearing issued by the undersigned ALJ on August 22, 2023, and October 10, 2023, 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 under Indiana Code § 4-21.5-3-24.”

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 November 17, 2021, 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 Respondent within seven (7) days, the ALJ will issue a Findings of Fact, Conclusions of Law, and Proposed Default Order, recommending that the agency petition for permanent revocation of Respondent’s license be granted.

SO ORDERED:



Beth A. Butsch, Administrative Law Judge
Office of Administrative Law Proceedings

Distributed to Parties:

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

Behram Daboo – Petitioner, served by mail at daboobehram0217@gmail.com

Additional Distribution to Non-Party:

Dawn Bopp – Non-Party, Administrator for the Indiana Department of Insurance served by E-Mail at DBopp@idoi.in.gov

Deshon Smith – Non-Party, Court reporter served at desmith2211@gmail.com

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 22252-AG23-0613-078

IN THE MATTER OF:)

Behram Daboo)
3152 Ollerton Ave)
Aurora, IL 60502)

Respondent.)

Type of Agency Action: Enforcement)

License Number: 3780047)



Filed August 21, 2023

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 Behram Daboo (“Respondent”), as follows:

FACTS

1. Behram Daboo (“Respondent”) is a nonresident insurance producer, holding license #3780047 since March 18, 2022.
2. Respondent’s license is due for renewal on February 28, 2025.
3. Respondent license was suspended by the Commissioner Order on July 6, 2023.
4. Respondent was terminated for cause by American Family Life Assurance Company of Columbus (“Aflac”) on or around February 1, 2023.
5. American Family Life Assurance Company of Columbus (“Aflac”) alleges Respondent is responsible for enrolling individuals without their knowledge or consent.

6. Aflac's investigation revealed a total of seven policies issued to three different policy holders without their knowledge or consent.
7. Aflac has been unsuccessful with making contact with Respondent to assist with the investigation.

CHARGES

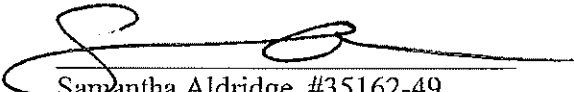
COUNT I

8. Averments 1 through 7 are incorporated fully as if set forth herein.
9. Respondent's conduct, as alleged herein, constitutes using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere and is cause for disciplinary action in accordance with Indiana Code § 27-1-15.6-12(b)(8) to include sanctions, fine, restitution and revocation of license.

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 nonresident insurance producer license #3780047; and
2. Grant all other relief necessary and proper in the premises.

Respectfully submitted,



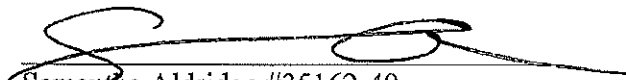
Samantha Aldridge, #35162-49
Attorney, Enforcement Division

Samantha Aldridge, Attorney
ATTN: Tina Harris, Sr. Investigator
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: (317) 233-0129
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 21st day of August, 2023.

Behram Daboo
3152 Ollerton Ave.
Aurora, IL 60502


Samantha Aldridge #35162-49
Attorney, Enforcement Division