

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

SS:  
DOI CAUSE NO: 23199-AG24-0320-041  
ADMINISTRATIVE CAUSE NO.: DOI-2404-000879

IN THE MATTER OF: )  
 )  
Michael Anthony Prestamer )  
9610 Fran Lin Parkway )  
Munster, IN 46321 )  
 )  
Petitioner. )  
 )  
License Number: 886245 )  
 )  
Type of Agency Action: Enforcement )

**FILED**  
**JUL 01 2024**  
STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On May 1, 2024, the Administrative Law Judge, Natalie Fierek, issued her Non-Final Administrative Decision (the “Recommended Order”) with respect to the Department’s Findings of Fact, Conclusions of law, and Emergency Order (“Emergency Order”) suspending Petitioner’s resident producer license. The Recommended Order operates as the recommended order under Indiana Code § 4-21.5-3-27 in the above-captioned matter.

1. The Department has complied with the notice requirements of Ind. Code § 4-21.5-3-17.
2. Counsel for the Department timely filed an objection with the Commissioner regarding the Recommended Order on May 15, 2024.
3. The ultimate authority shall issue a final order affirming, modifying, or dissolving the administrative law judge’s order under Ind. Code § 4-21.5-3-29.

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

### FINDINGS OF FACT

1. All Findings of Fact set forth in the Recommended Order are adopted in full and incorporated herein.
2. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

### CONCLUSIONS OF LAW

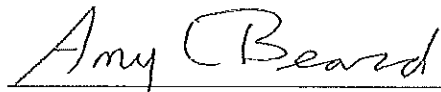
1. Paragraphs 1, 2, 3, 4, 6, 7, 8, 9, 10, and 11 set forth in the Conclusions of Law section of the Recommended Order are adopted in full and incorporated herein.
2. Paragraph 5 set forth in the Conclusions of Law section of the Recommended Order is modified as follows: "The person requesting an agency act has the burden of persuasion and the burden of going forward. Ind. Code § 4-21.5-3-14(e). Because Petitioner requested the hearing with respect to the Emergency Order, and the Respondent has not requested an action, the Petitioner bears the burden of proof and the burden of going forward."
3. Paragraph 12 set forth in the Conclusions of Law section of the Recommended Order is modified as follows: "Petitioner has not met his burden of proving that the Emergency Order should be voided, terminated, modified, or stayed."
4. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

**FINAL ORDER**

IT IS THEREFORE ORDERED by the Commissioner of Insurance that the Emergency Order suspending Petitioner's resident producer license be continued.

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   1   day of July 2024.



Amy L. Beard, Commissioner  
Indiana Department of Insurance

Copies to:

Michael Anthony Prestamer  
Petitioner  
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Joeseeph Bossinger  
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Office of Administrative Law Proceedings  
OALP@oalp.in.gov



ISSUED:  
May 1, 2024

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Michael Prestamer,

Petitioner,

v.

Department of Insurance,

Respondent.

Administrative Case Number: DOI-2404-000879

Agency Number: 23199-AG24-0320-041

**Ultimate Authority:** Department of Insurance

### NON-FINAL ADMINISTRATIVE DECISION

The Administrative Law Judge (ALJ) Natalie Fierek, 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 suspend Petitioner's resident producer license number 886245. This decision is favorable to Respondent. Any party dissatisfied with this decision may appeal. 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 DOI's Emergency Order suspending Petitioner's resident producer license should be voided, terminated, modified, stayed, or continued.

## Procedural History

1. On March 22, 2024, Respondent Department of Insurance (DOI) issued an Emergency Suspension Order, suspending Petitioner Michael Prestamer's resident producer license.
2. On April 4, 2024, Petitioner filed a Request for Hearing on the Emergency Suspension Order issued by the DOI.
3. The Notice of Administrative Filing was forwarded to the Office of Administrative Law Proceedings (OALP) on April 5, 2024. On April 8, 2024, the evidentiary hearing of this matter was scheduled for April 23, 2024.
4. On April 23, 2024, the evidentiary hearing was conducted via the zoom platform. Petitioner appeared self-represented. Respondent appeared by counsel, Joseph Bossinger, and investigator, Hana Biele.
5. Petitioner and Ms. Biele were duly sworn and testified.
6. The following Exhibits were offered and admitted at the evidentiary hearing:
  - a. Respondent Exhibit A, Case Number: 45G01-2308-F5-000393 Information document (2 pages), admitted over prejudice objection.
  - b. Respondent Exhibit B, Probable Cause Affidavit (4 pages), admitted over prejudice and hearsay objections.
  - c. Respondent Exhibit C, MyCase Chronological Case Summary (7 pages), admitted without objection.
7. Petitioner offered no exhibits.

## Findings of Fact

1. On June 19, 2013, Petitioner, Michael Prestamer, was issued Indiana resident producer license number 886245 (Emergency Suspension Order).
2. On March 22, 2024, Amy L. Beard, Commissioner of the Indiana Department of Insurance, issued an Emergency Order suspending Petitioner's Indiana resident producer license for ninety (90) days (Emergency Suspension Order).
3. On August 3, 2023, Petitioner was charged with three counts of Possession of Child Pornography with an aggravating factor (a Level 5 Felony) and three counts of Possession of



Child Pornography (a Level 6 Felony) in Lake County, Indiana (Respondent Ex. A at 1-2, Res. Ex. C at 1-2).

4. An initial hearing on these criminal charges was conducted on August 18, 2023 (Res. Ex. C at 4, Petitioner testimony).
5. Petitioner did not report the pending criminal charges to the DOI following the initial pretrial hearing (Biele testimony).

### 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 IDOI is the ultimate authority. Ind. Code § 27-1-15.6-12(d); Ind. Code §§ 4-15-10.5-12 and 13.
3. Upon request by a party for a hearing on an emergency order issued, an administrative law judge (ALJ) shall determine whether the order should be voided, terminated, modified, stayed, or continued. Ind. Code § 4-21.5-4-4.
4. 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).
5. 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). Respondent requests that Petitioner's license be suspended, therefore Respondent 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. 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." Ind. 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).
7. An insurance producer license remains in effect unless revoked or suspended by the DOI. Ind. Code § 27-1-15.6-7.

8. The DOI Commissioner may suspend an insurance producer's license for violating an insurance law. Ind. Code § 27-1-15.6-12(b)(2)(A).
9. "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." Ind. Code § 27-1-15.6-17(b).
10. Petitioner was issued a resident producer license by the DOI and was required to abide by insurance laws. Petitioner has been charged with six criminal charges and had an initial hearing on the charges on August 18, 2023. Pursuant to Ind. Code 27-1-15.6-17(b), Petitioner was required to report the criminal prosecution to the DOI within thirty (30) days of the initial hearing date. Petitioner failed to report the criminal prosecution to the DOI as required by the Indiana insurance law.
11. Petitioner violated an insurance law, and the DOI has the authority to suspend Petitioner's insurance producer license for such violation.
12. Respondent has met its burden of proving that Petitioner's resident insurance producer license may be suspended.

### Decision and Order

In consideration of the foregoing, Findings of Fact and the Conclusions of Law as stated, the ALJ now recommends that the DOI's Emergency Order suspending Petitioner's resident producer license be continued.

So ordered on: May 1, 2024



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Administrative Law Judge  
Natalie Fierek

### 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](mailto:dbopp@idoi.in.gov).

**Distribution:**

Petitioner, Michael Prestamer, sent via postal mail at 9610 Fran Lin Parkway, Munster, IN 46321

Respondent, Department of Insurance, via counsel, Joseph Bossinger, sent via e-mail at [JBossinger@idoi.in.gov](mailto:JBossinger@idoi.in.gov)

Ultimate Authority, Commissioner of Department of Insurance, sent via e-mail at [DBopp@idoi.in.gov](mailto:DBopp@idoi.in.gov)





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License Number: 886245 )

**FILED**  
**MAR 22 2024**  
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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND EMERGENCY ORDER**

The Commissioner of the Indiana Department of Insurance (“Commissioner”), being duly advised, now issues the following Findings of Fact, Conclusions of Law, and Emergency Order:

**FINDINGS OF FACT**

1. Michael Anthony Prestamer (“Respondent”) is an Indiana resident insurance producer holding license number 886245 since June 19, 2013.
2. On or around August 3, 2023, Respondent was charged under Cause Number 45G01-2308-F5-000393 with six (6) criminal charges, which include: three (3) counts of Possession of Child Pornography with an aggravating factor, each a Level 5 Felony, and three (3) counts of Possession of Child Pornography, each a Level 6 Felony, in Lake Superior Court in Crown Point, Indiana.

3. On or about August 18, 2023, an initial pretrial hearing in the aforementioned criminal proceeding was held with Respondent in attendance.
4. Respondent failed to notify the Department not more than thirty (30) days after the initial pretrial hearing of Respondent's criminal prosecution.

#### **CONCLUSIONS OF LAW**

1. An emergency exists such that an emergency order is appropriate under Indiana Code § 4-21.5-4-1, in that Respondent's continued ability to sell, solicit, or negotiate insurance in the state of Indiana with a valid license places Respondent in a position of trust with Indiana consumers and in control of Indiana consumers' financial circumstances.
2. Indiana Code § 27-1-15.6-12(b)(8) authorizes the Commissioner to suspend 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.
3. Indiana Code § 27-1-15.6-12(b)(2)(A) authorizes the Commissioner to suspend an insurance producer's license for violating an insurance law.
4. Indiana Code § 27-1-15.6-17(b) is an insurance law that 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.
5. This Emergency Order is issued pursuant to Indiana Code § 4-21.5-4-2(a)(1).

**ORDER**


With the Findings of Fact and Conclusions of Law as stated above, the Commissioner now orders:

1. Michael Anthony Prestamer's Indiana Resident Producer License number 886245 is hereby immediately suspended for ninety (90) days, renewable as necessary per Indiana Code § 4-21.5-4-5.

Under Indiana Code § 4-21.5-4-3, this Emergency Order is effective when issued.

**Respondent has the right to request a hearing on this Emergency Order by filing a request for a hearing with the Department, and if requested, an evidentiary hearing will be set on the matter as soon as practicable.**

3.22.2024  
Dated

  
\_\_\_\_\_  
Amy L. Beard, Commissioner  
Indiana Department of Insurance

Distribution to:

Michael Anthony Prestamer  
9610 Fran Lin Parkway  
Munster, IN 46321

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

STATE OF INDIANA )  
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**FILED**

**MAR 22 2024**

STATE OF INDIANA  
DEPT. OF INSURANCE

**MOTION FOR EMERGENCY SUSPENSION**

The Enforcement Division of the Indiana Department of Insurance (“Enforcement Division”), pursuant to Indiana Code § 4-21.5-4, files its petition for emergency suspension against Michael Anthony Prestamer (“Respondent”), and states:

1. Respondent is a resident insurance producer holding license number 886245 since June 19, 2013.
2. Respondent’s license expires on March 31, 2024.
3. On or around August 3, 2023, Respondent was charged under Cause Number 45G01-2308-F5-000393 with six (6) criminal charges, which include: three (3) counts of Possession of Child Pornography with an aggravating factor, each a Level 5 Felony, and three (3) counts of Possession of Child Pornography, each a Level 6 Felony, in Lake Superior Court in Crown Point, Indiana.
4. On or about August 18, 2023, an initial pretrial hearing in the aforementioned criminal proceeding was held with Respondent in attendance.



5. Respondent failed to notify the Department of Respondent's criminal prosecution not more than thirty (30) days after the initial pretrial hearing..
6. The Indiana Department of Insurance ("Department") has serious consumer protection concerns regarding Respondent's competence and trustworthiness.
7. An emergency exists in that Respondent's continued ability to sell, solicit, or negotiate insurance in the state of Indiana with a valid license places Respondent in a position of trust with Indiana consumers and in control of Indiana consumers' financial circumstances.
8. Indiana Code § 27-1-15.6-12(b)(8) authorizes the Commissioner to suspend 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.
9. Indiana Code § 27-1-15.6-12(b)(2)(A) authorizes the Commissioner to suspend an insurance producer's license for violating an insurance law.
10. Indiana Code § 27-1-15.6-17(b) is an insurance law that 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.
11. Under Indiana Code § 4-21.5-4-2(a)(1), the Commissioner may, in an emergency, issue orders without notice or an evidentiary proceeding. However, Indiana Code § 4-21.5-4-4 provides that upon issuance of an emergency order, the Respondent may request a hearing as quickly as practicable.

12. Respondent should be required to cease practice as an insurance agent until the Department can be made sure that Respondent has the ability to practice competently and in a trustworthy manner.

WHEREFORE, the Enforcement Division requests that the Department issue an order suspending the Indiana resident producer license of Michael Anthony Prestamer under Indiana Code § 4-21.5-4-2, and for all other necessary and proper relief.

/s/ Joseph Bossinger  
Joseph Bossinger, Attorney #35166-49  
Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street  
Indianapolis, IN 46204

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served upon the Respondent by United States First Class mail, postage prepaid, the same day as filing.

\_\_\_\_\_/s/ Joseph Bossinger\_\_\_\_\_  
Joseph Bossinger #35166-49  
Enforcement Division  
Indiana Department of Insurance  
311 W Washington St, Ste 103  
Indianapolis, IN 46234