

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF:

AID ORDER NO. 2016-083

CATHY PERRY  
RESPONDENT NPN 16120775

ORDER

On this day, the matter of the producer's license of Cathy Perry ("Respondent") came before Allen Kerr, Arkansas Insurance Commissioner ("Commissioner"). A hearing was held on September 7, 2016, in the First Floor Hearing Room of the Arkansas Insurance Department ("Department") pursuant to the Notice of Hearing dated August 3, 2016. The hearing was held before Deputy Commissioner Dan Honey ("Hearing Officer") pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Gray Allen Turner, Associate Counsel. The Respondent was represented by Lawrence Walker, Attorney at Law.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*
2. Respondent, Cathy Perry, received notice of the hearing and was present at the hearing and represented by counsel.
3. Respondent resides in Pulaski County, Arkansas.

4. Based on the testimony and the evidence presented, the Hearing Officer makes the following findings of fact:

Respondent came to the attention of the Arkansas Insurance Department in 2015 when she applied for a new agency license. The name of the new agency would have been "Right Choice Plus," a name identical to a previously licensed agency that had its license revoked. As Respondent sought to use the name of a recently revoked agency, AID investigators requested that Respondent attend an investigative conference to determine the business relationship Respondent planned to have with the sole owner of Right Choice Plus, Ms. Shalonda Tidwell. Ms. Tidwell's resident producer license was revoked as of November 17, 2015. Respondent attended an investigative conference on November 23, 2015, to discuss her agency application. Investigator Marjorie Farmer testified that, at the conference, Respondent stated that Shalonda Tidwell would not be working in any capacity with her or for her.

As part of the investigation, AID investigators requested Respondent to produce several records that, as an agent, she was required to keep on file. The files Respondent provided were incomplete and only contained signature sheets for several automobile policies. Respondent was allowed the opportunity to provide more complete records. When the records were not made available, AID investigators went to Respondent's home office on June 2, 2016, to determine if she was keeping adequate records. On that day, Respondent informed investigators that all of her records were in storage, but she could have them brought to her office. Respondent made a phone call and Mrs. Shalonda Tidwell brought a small amount

of files and made them available for inspection. Respondent failed to provide further records as requested by AID investigators and as required by Ark. Code Ann. § 23-64-220.

During the investigation, AID investigators contacted several of Respondent's insurance customers to determine who actually sold the policies. Investigator Marjorie Farmer was able to speak with eight customers who indicated that Mrs. Shalonda Tidwell sold them their insurance policies in 2016, not Respondent Cathy Tidwell, even though her name was listed as the licensed producer.

AID sent Respondent a letter by certified mail requesting copies of any life insurance records she had as of June 30, 2016. Respondent received this letter by certified mail and it was emailed to Respondent and her attorney. Respondent refused and failed to respond to this request and has, to this date, not provided the requested life insurance records and has not given any explanation as to why she did not have the files.

At the hearing, Respondent did not testify, did not refute any of the evidence presented, did not call any witnesses, and did not present any evidence. The testimony of the AID investigators is credible and was not challenged.

#### CONCLUSIONS OF LAW

1. Ark. Code Ann. § 23-64-512(a)(12) requires producer to avoid "[k]nowingly accepting insurance business from an individual who is not licensed." Respondent, while acting as an insurance producer, accepted insurance business

from Mrs. Shalonda Tidwell, whose producer license had been revoked. Respondent's actions are therefore a violation of Ark. Code Ann. § 23-64-512(a)(12).

2. Ark. Code Ann. § 23-64-220 requires licensed producers to maintain specific records in their place of business. During an office inspection, AID investigators requested to see Respondent's records. Respondent failed to maintain records of policies, correspondence, notes, and other records as required by the statute. Respondent's actions are therefore a violation of Ark. Code Ann. § 23-64-220.

3. Ark. Code Ann. § 23-64-512(a)(16) prohibits a producer from "[r]efusing to be examined or to produce any accounts, records, or files for examination." AID investigators sent Respondent a certified letter requesting copies of her life insurance records. Respondent did not respond to certified letters or emails regarding this request and no life insurance records were ever produced. Respondent provided no explanation or reason for her failure to respond to investigators' requests for records and declined to testify at the hearing. Respondent's actions are therefore a violation of Ark. Code Ann § 23-64(a)(16).

4. Pursuant to Ark. Code Ann. § 23-64-512, there has been sufficient and credible evidence presented to revoke or suspend the Respondent's resident producer license.

RECOMMENDATION OF HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That the Arkansas Insurance Resident Producer license of Respondent Cathy Perry, NPN14594507 be suspended for a period of one year.
2. That the Respondent Cathy Perry shall, as authorized by §23-64-216(d)(1) pay to the Arkansas Insurance Department an administrative penalty in the amount \$1,000, within ninety days of the entry of this order.



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Dan Honey  
Deputy Commissioner and  
Hearing Officer

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Dan Honey, Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that the Arkansas producer's license of Cathy Perry, NPN 16120775, is suspended for a period of one year. The Respondent Cathy Perry shall pay to the Arkansas Insurance Department an administrative penalty in the amount \$1,000 within ninety days of the entry of this order.

IT IS SO ORDERED THIS 5th DAY OF Oct, 2016.



ALLEN KERR  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS