

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

ARKANSAS INSURANCE DEPARTMENT)	
PETITIONER)	
)	
VS.)	
)	
LESLIE RICHARDSON; AND)	
THE LESLIE RICHARDSON AGENCY)	A.I.D. NO. 2020-23
RESPONDENTS)	

REVOCATION ORDER

On this day, the matter of the producer’s licenses of Leslie Richardson (“Respondent”) and The Leslie Richardson Agency (“Respondent Agency”) came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). A hearing was held on February 6, 2020, in the First Floor Hearing Room of the Arkansas Insurance Department (“Department”) pursuant to the Notice of Hearing dated January 10, 2020. The hearing was held before Russ Galbraith, Chief Deputy Insurance Commissioner (“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 Mr. Gray Allen Turner, Associate Counsel. The Respondents were present and represented by Mr. James Simpson.

FINDINGS OF FACT

Based on the hearing record the Hearing Officer makes the following findings of fact:

1. Respondent is a resident of White County.
2. Respondent holds an Arkansas resident producer license, NPN 16984417.
3. Respondent Agency holds an Arkansas resident business entity producer license NPN 300596175

4. Respondent was sent notice of hearing by regular and certified mail to her last known address provided to the Department and through her attorney on January 10, 2020.

5. Respondent was an employee of the John Hayes Insurance Agency from 2013 to 2016.

6. During her employment with the John Hayes Insurance Agency, Respondent had access to the agent portal for several insurers through the use of the agency's login information and passwords.

7. After she was no longer employed by the John Hayes Insurance Agency, Respondent kept a copy of the agency's login information and passwords for several of the Hayes Agency insurance company accounts including Dairyland Insurance Company and Agent's Mutual Insurance Company.

8. Respondent left the Hayes Agency in 2016 and soon after began working at American Safeguard Insurance ("ASI"), a resident licensed business entity insurance producer in Conway.

9. During her employment with ASI, Respondent entered an employment agreement in which she agreed: "During the term of this agreement, the Employee shall not engage in any other business activity without the express prior written consent of the Company."

10. In May of 2019, while employed full-time by ASI, Respondent, using the login information and passwords she obtained while working at the John Hayes Insurance Agency, intentionally accessed and viewed insurance customer data information belonging to several customers who had policies through Dairyland Insurance Company and Agent's Mutual Insurance Company. The customer information accessed included customer addresses, phone numbers, email addresses, date of birth, marital status, driver's license numbers, history of moving violations, VIN numbers, automobile insurance policy terms, policy renewal dates, payment histories, and premium amounts.

11. Respondent, using ASI computers, printers, and paper, created a printed copy of the Dairyland Insurance and Agent's Mutual customer information she accessed and viewed.

12. At the time she viewed and accessed the Dairyland and Agent's Mutual customer information, Respondent did not have the permission or authority to access such information from the insurers, the Hayes Agency, or Mr. John Hayes.

13. Respondent intentionally and without authorization used ASI computers, copy paper, printers, and internet service provider for the purpose of accessing, viewing, and creating printed copies of customer information from Dairyland Insurance and Agent's Mutual Insurance.

14. Respondent, with the assistance of her employee, used the Dairyland Insurance customer list to identify, contact, and solicit potential insurance customers. Because they had the customers' names, account numbers, renewal dates, and type of policy, Respondent was able to convince several Dairyland Insurance customers who were formerly customers of the Hayes Agency that she was their new agent and then had them sign an agent of record form assigning herself as the customer's new agent of record. By doing so, she would be able to receive future insurance premium commissions once those customers renewed a policy.

15. Respondent gave sworn testimony at an October 28, 2019, investigative conference. At that conference Respondent admitted to accessing information for Dairyland and Agent's Mutual customers without authority using passwords she obtained while working at the John Hayes Insurance Agency.

16. Respondent was not encouraged, given permission, or requested to obtain customer lists from Dairyland Insurance or Agent's Mutual Insurance by anyone at ASI.

17. Respondent, while employed at ASI, incorporated her business entity, The Leslie Richardson Agency, on July 10, 2019.

18. After her employers learned she had incorporated an agency, Respondent was terminated by ASI on July 18, 2019.

19. On August 5, 2019, Respondent contacted Dairyland insurance customer Erika Daniel. Respondent told Ms. Daniel that Mr. Hayes had retired and she was taking over his business. Ms. Daniel received an agent of record change form through email from the Respondent Agency. Ms. Daniel had not provided the agency with her email address.

20. On September 13, 2019, Respondent had in her possession of a printed copy Ms. Daniel's Dairyland insurance customer information she obtained on May 30, 2019, using the Hayes Agency login information. This customer information included Ms. Daniel's address, phone number, email address, date of birth, marital status, driver's license number, history of moving violations, a description of her vehicle, the vehicle's VIN number, her automobile insurance policy term, her policy renewal date, payment history, and her premium amount.

21. Gerald and Kayla Morris were customers of the John Hayes Insurance Agency and had an automobile insurance policy through Dairyland Insurance.

22. On or about August 6, 2019, Mr. Morris received a call from The Leslie Richardson Agency about his Dairyland insurance policy renewal. He was told that Mr. Hayes had retired and that The Leslie Richardson Agency had taken over for Mr. Hayes' customers. Mr. Morris was told he needed to come by the office to sign the policy over to the new agency to be serviced. On or about August 12, 2019, Mr. Morris and his wife met with Respondent at her agency in Beebe. Mr. Morris observed that the Respondent had on her desk what "must have been hundreds of other people's information in the stacks of printed paper." Mr. and Mrs. Morris signed an agent of record change requesting that The Leslie Richardson Agency be assigned the new agent of record. On or about August 22, 2019, Mr. Morris called the phone number he had for the Hayes Insurance Agency for the purpose of cancelling his Dairyland insurance policy and being insured by Shelter. The phone number he had for the

Hayes Agency reached April Newby, a Shelter agent who had been selected and assigned by Shelter and its Daniel Boone Agency to take over the Hayes Agency customer accounts, including Agent's Mutual and Dairyland.

23. Mr. Morris was concerned about the safety of his personal information due to the way Respondent had his policy number, information, contact information, driver's license number, and other identifying information he had not provided to the Respondent.

24. Respondent had possession of a printed copy of Gerald and Kayla Morris' customer information from Dairyland Insurance she obtained on May 30, 2019, using the Hayes Agency login information. This customer information included the Morris' address, email, dates of birth, drivers' license numbers, phone number, marital status, a description of their vehicles, the vehicles' VIN numbers, their automobile insurance policy term, their policy renewal date, their payment history, and their premium amount. Respondent provided this customer information to her employee Mrs. Neu. Mrs. Neu used this information to solicit insurance business from the Morrises.

25. On or about August 13, 2019, Respondent's employee Rebecca Neu contacted Shelly Wilson, who is mother of and has power of attorney for Agent's Mutual insurance customer Delilah Ferguson. Mrs. Neu told Mrs. Wilson that Mrs. Ferguson's agent had retired and The Leslie Richardson Agency was taking over his clients' accounts. Mrs. Neu told Mrs. Wilson that she worked out of the same office with her agent. This was not an accurate statement. Mrs. Ferguson's Agent's Mutual insurance agent was Toby Hogan in Ozark, Arkansas, who had not retired. Mrs. Wilson, based on Mrs. Neu's assertions, signed an agent of record change requesting her mother's policy by assigned to the Leslie Richardson Agency.

26. Respondent had possession of a copy of Delilah Ferguson's customer information from Agent's Mutual she obtained on May 30, 2019, using the Hayes Agency login information. This customer information included Mrs. Ferguson's name,

phone number, address, type of policy, policy number, and policy renewal date. Respondent provided this customer information to her employee Mrs. Neu. Mrs. Neu used the customer information to solicit insurance business.

27. In August of 2019, Rebecca Neu, acting on behalf of The Leslie Richardson Agency, contacted Agent's Mutual insurance customer Debbie Pounds and told her that The Leslie Richardson Agency was their new agent and asked Mrs. Pounds to sign an agent of record change form. Mrs. Neu told Mrs. Pounds that her agent had retired. This was not an accurate statement. Mrs. Pound's agent, Mr. Joey Bailey in Ashdown, Arkansas, had not retired.

28. In August of 2019, Rebecca Neu, acting on behalf of The Leslie Richardson Agency, left a voice mail for Agent's Mutual insurance customer Roberta Judge-Jackson stating she was the new agent for her policy. This was not an accurate statement. Mrs. Judge-Jackson's had an active agent, Mr. Joey Bailey.

29. In August of 2019, Rebecca Neu, representing the Leslie Richardson Agency contacted Mr. Eric Williams, who had an Agent's Mutual policy through the Daniel Boone Agency. Mrs. Neu told Mr. Williams that his agent had retired and he needed to sign an agent of record change form so that the agency could service his policy. This was not an accurate statement. Mr. Williams' agent, Amy Garth in Des Arc, had not retired and was still his agent.

30. Respondent had in her possession of a copy of Eric Williams's customer information from Agent's Mutual she obtained on May 30, 2019, using the Hayes Agency login information. This customer information included Mr. Williams' name, telephone number, address, type of policy, policy number, and policy renewal date. Respondent provided this customer information to her employee Mrs. Neu. Mrs. Neu used the customer information to solicit Mr. Williams' insurance business.

31. Respondent had in her possession current customer information belonging to Dairyland Insurance customer Michail Dermgrdichian. The customer information included Mr. Dermgrdichian's name, phone number, home address, policy type,

renewal date, policy amount, payment history, marital status, driver's license number, driving history, and vehicle type.

32. Investigators with the Arkansas Insurance Department visited The Leslie Richardson Agency two times on September 13, 2019, to investigate a complaint alleging that Respondent had solicited insurance business using false claims that a consumer's insurance agent had retired.

33. Respondent made a false statement to investigators on September 13, 2019, that she had found customer information belonging to Dairyland insurance customer Erika Daniel in a trash bin or recycling box present in the office before she started her agency. The customer information was, in fact, part of the Dairyland customer list Richardson printed on May 30, 2019, while still at ASI.

34. Respondent was terminated by ASI on July 18, 2019. On that day, she was given a letter of termination. In that letter, she was requested to return to the ASI all customer information, files, or documentation that were the property of ASI.

35. Rebecca Neu was terminated by ASI on July 18, 2019. On that day, she was given a letter of termination. In that letter, she was also requested to return to ASI all customer information, files, or documentation that were the property of ASI.

36. During the September 13, 2019, visit to The Leslie Richardson Agency, investigators identified and took possession of several files. Included in the files removed from the agency was a compilation of customer information representing a complete list of all ASI personal lines customers with their contact information and policy renewal date. These files were voluminous as is seen in a photo of the files in Exhibits 28(a), 28(b), and 28(c).

37. The ASI customer files were located in The Leslie Richardson Agency in a drawer in a back file-room. The customer files were neatly arranged by month according to their date of renewal.

38. In addition to a complete compilation of ASI personal lines customer information, specific customer information in these files included valuable

information that had been compiled by ASI over a period of years and included protected customer personal information including names, social security numbers, dates of birth, bank account information, driver's license numbers, addresses, phone numbers, policy type, policy renewal dates. This customer information was not capable of being ascertained through a public source, was maintained in a secure manner, and was considered a trade secret by ASI. These files were found in Respondent's office in a desk and a cabinet next to her desk

39. Respondent had access and control in her agency over ASI documents containing customer information and trade secrets that did not belong to her.

40. At the October 28, 2019, investigative conference, Respondent acknowledged she had ASI customer files in her home office at the time she was terminated.

41. Respondent had possession of ASI personal lines customer lists at the time of her termination and knew she had possession of these lists.

42. After her termination Respondent was instructed to return any ASI property, customer information, or files to ASI.

43. Respondent did not return the ASI personal lines customer lists or files to ASI, nor did she shred them.

44. Insurance department investigators returned the ASI personal lines customer files to ASI.

45. Respondent's testimony that she did not know she was in possession of the ASI personal lines customer files or that they were in her new agency is not credible.

46. Rebecca Neu's testimony that she alone was responsible for creating the ASI personal lines customer files found in the back file room and bringing those files from her home to The Leslie Richardson Agency was not credible.

47. After her termination, Respondent did not inform the owners of ASI that her new agency had in its possession a complete list of ASI personal lines customers.

48. After her termination, Respondent did not attempt to return the ASI customer files to ASI, destroy the files, or request that ASI retrieve the files.

CONCLUSIONS OF LAW

The Hearing Officer makes the following conclusions of law:

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Arkansas Code Annotated § 23-64-103, *et seq.*
2. During the hearing, the parties made a number of arguments seeking to exclude certain evidence from the record. The presiding officer has the authority to render decisions on evidentiary issues and questions raised at the hearing. See Ark. Code Ann. § 25-15-213(4).
3. The Department presented 29 exhibits during the hearing. These exhibits were ruled to be admissible, relevant, and are included in the hearing record.
4. The Respondent presented six exhibits. Exhibits 2 through 6 were ruled to be admissible, relevant, and are included in the hearing record.
5. The Department objected to Respondent's Exhibit 1, which contained an affidavit by a process server attempting to serve a hearing witness. As the witness was present voluntarily and testified, this exhibit was considered, but excluded as it was not relevant.
6. The Department objected to certain testimony from several witnesses. Specifically, the Department objected to testimony of witnesses who did not have knowledge of the facts of the case. Any testimony concerning statements made by members of the legislature to each other and their discussions with the Commissioner was ruled as not relevant as this evidence would not assist the Hearing Officer determine if there had been any violations of the Insurance Code. Additionally, any testimony presented for the purpose of demonstrating that the Commissioner was biased either in favor of or against the Respondent was excluded

as there had not been an affidavit of bias filed as required by Ark. Code Ann. § 25-15-213(2)(C).

7. The hearing record was kept open and the parties were allowed seven days to submit additional evidence after the hearing was concluded.

8. The Department submitted one post-hearing exhibit containing a photograph and this exhibit is included in the hearing record.

9. The Respondent submitted six post-hearing exhibits including a timeline, three text messages, and two letters. Exhibits #1 and #3 through #6 are admitted into the hearing record.

10. The Department objected to the introduction of Respondent's post-hearing Exhibit #2. The Department's objection was that a portion of the exhibit included statements by several state legislators. Because this exhibit contained statements of the nature that had been previously ruled inadmissible, this exhibit was considered but is ruled not relevant and is therefore excluded from the hearing record.

11. The Commissioner may revoke any license issued by him if, after a hearing, he finds any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner including a violation of or noncompliance with any applicable provision of the laws of this state. See *Wacaser v. Ins. Com'r*, 321 Ark. 143, 148, 900 S.W.2d 191, 194 (1995).

12. The Respondent's actions were a violation of Ark. Code Ann. § 5-13-205 Computer Trespass. Specifically, Respondent accessed, viewed, and copied Dairyland Insurance Company and Agent's Mutual Insurance customer information without permission or authorization which, standing alone, is sufficient grounds for revocation. Respondent copied this information one day before the passwords would no longer be useful. Then, Respondent took the customer's information to her new agency and used it for a business purpose to identify and solicit customers knowing these customers already had an agent of record. As to the customers she contacted for the purpose of obtaining an agent of record change form – she did not quote

them any policies with lower premiums or better coverage. Her actions did nothing to help the customers.

13. The Respondent's actions were a violation of Theft of Trade Secrets, Ark. Code Ann. § 5-36-107 and the Arkansas Uniform Trade Secrets Act, Ark. Code Ann. § 4-75-601. A trade secret includes information, including compilation, that has independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. The companies used reasonable measures to protect their customer information. As our courts have held, "[c]ustomer lists containing information beyond the names of the customers, for example dates of contract expirations, are more likely to be considered trade secrets." *Statco Wireless, LLC v. Sw. Bell Wireless, LLC*, 95 S.W.3d 13, 17 Ark. Ct. App. 2003. The information the Respondent misappropriated meets this definition. The Respondent, without authority and with a purpose to deprive the owner of the exclusive control of a trade secret, made a copy of a trade secret then disclosed that trade secret for the purpose of economic gain.

14. Respondent violated Ark. Code Ann. § 23-64-512(a)(8) which requires a producer to cooperate with an investigation by the Commissioner. Respondent violated this statute by making false statements as to how she came into possession of customer information from Dairyland Insurance and Agent's Mutual.

15. The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken. Ark Code Ann. § 23-64-512(c). Respondent is the sole owner of The Leslie Richardson Agency and it follows that Respondent's violations were known by an officer of the business entity and the violation was neither reported to the commissioner nor was corrective action taken.

16. The Department has met its burden of proof by a preponderance of the evidence with respect to revoking Respondent's resident insurance producer license and the license of the Respondent Agency. Any one of these violations is sufficient for the suspension or revocation of the Respondent's and Respondent Agency's producer insurance licenses. Respondent no longer meets the qualifications to hold an insurance producer license

RECOMMENDATION OF THE HEARING OFFICER

The Hearing Officer adopts the forgoing findings of fact and conclusions of a law and makes the following recommendations:

1. The first duty of the Arkansas Insurance Department is to protect the insurance consumer. An insurance consumer relies on an insurance agent to be honest and trustworthy. Revoking an agent's license is a serious consequence for serious actions. When an agent has breached that trust by violating the law, using fraudulent information and statements to gain a competitive advantage and stealing information from other companies for a competitive advantage, then the trust of the consumer and the Department has been lost.
2. Logging in with someone else's credentials and not having permission or authority from the company or the credentialed agent is a cyber breach and a violation of §§ 23-64-512(a)(2) & 5-13-205.
3. Accessing personal information of policyholders that includes: name, telephone number, address, marital status, DL number, driving history, payment history and/or social security number, with an ID and password that is not yours is a cyber breach and tantamount to theft of property and theft of trade secrets .§§ 5-13-103 & 5-36-107.

4. There are many instances where Leslie Richardson or someone representing Leslie Richardson solicited insurance business by using the information gained from the theft of property and by misleading the consumer by stating that Leslie Richardson was the authorized replacement agent for the consumer. It appears that this fraud was carried out on multiple occasions and was standard operating procedure in the agency. When investigators from the AID questioned Leslie Richardson as to how she obtained personal information on consumers, she lied to them. That is a violation of Ark. Code Ann. § 23-64-512(a)(17).

5. It is irrelevant to me whether these violations of law and consumer trust were carried out because Richardson thought she had permission or was encouraged to do so. The facts show that the log-in and password used to gain the personal information of consumers were not her own and she had no right to use them to gain access to the information.

6. It is also irrelevant whether the respondent believes any consumer was “hurt” or lost anything of value because of her actions. The fact is that the way the respondent obtained consumer information was illegal. Pretending to be a new agent with authorization to switch consumers to her agency is illegal or at best unethical and fraudulent, and lying to AID investigators when confronted with her behavior is illegal and unethical.

For these reasons and the reasons stated in this order I support the revocation of Leslie Richardson’s insurance producer license and the license of the agency.


Russ Galbraith
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 Russ Galbraith, 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 licenses of Leslie Richardson and The Leslie Richardson Agency be revoked.

IT IS SO ORDERED THIS 13th DAY OF March, 2020.



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS