

FILED

AUG 28 2024

**Department of Insurance
State of Idaho**

RAÚL LABRADOR
Attorney General

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Attorney for Idaho Department of Insurance

Before the Director of the Department of Insurance

State of Idaho

Idaho Department of Insurance,

Complainant,

vs.

Denise Payton, an individual holding Idaho
Non-Resident Producer and Surplus Lines
Broker License NPN 2178367,

Respondent.

Docket No. 18-4451-24

Order of Default

The Director of the Idaho Department of Insurance (“Director”) having reviewed the record herein; and Denise Payton (“Payton”), who currently holds Idaho Non-Resident Producer License No. 2178367 and Idaho Non-Resident Surplus Lines Broker License No. 2178367, having been lawfully served the Verified Complaint and Notice of Right to Hearing (“Complaint”), a copy of which is attached hereto as Exhibit A and incorporated herein, and, as evident from the Statement of Counsel of Michael Witry, having failed to file an answer thereto and having failed to request

a hearing regarding said Complaint; and the Director having found as a result thereof that Payton has waived her rights regarding the opportunity for hearing; and in consideration of the above;

IT IS HEREBY ORDERED that Idaho Non-Resident Producer License No. 2178367 and Idaho Non-Resident Surplus Lines Broker License No. 2178367 issued to Payton are REVOKED effective immediately.

IT IS FURTHER ORDERED that Payton shall not be issued a new non-resident producer license or a non-resident surplus lines broker license under title 41, Idaho Code, until all fines and/or delinquent taxes owing by Payton have been paid and until after expiration of one (1) year from the service date of this Order.

IT IS FURTHER ORDERED that within thirty (30) days of the service date of this Order, Payton shall pay to the Idaho Department of Insurance an administrative penalty in the amount of \$25.00 for each day between April 2, 2024, and the service date of this Order.

DATED this 27 day of August, 2024.

STATE OF IDAHO
DEPARTMENT OF INSURANCE


DEAN L. CAMERON
Director

NOTIFICATION REGARDING REPORTABLE PROCEEDINGS

This is considered a reportable administrative proceeding. As such, it is a public record and is public information that may be disclosed to other states and reported to companies of which you are actively appointed. This information may be reported to other government agencies. Be aware that you may be required to disclose this proceeding on any license application, and you may be required to report this action to any and all states in which you hold a license.

NOTIFICATION OF RIGHTS

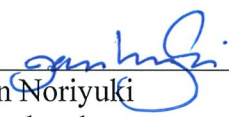
This constitutes a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order, or (b) an order denying a petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See* Idaho Code § 67-5273. The filing of a petition for judicial review to the district court does not itself stay the effectiveness or enforcement of the order under appeal. Idaho Code § 67-5274.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August, 2024, I caused a true and correct copy of the foregoing Order of Default to be served upon the following parties by the designated means:

Denise Payton 10727 S. Wallace St. Chicago, IL 60628-3207	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: msdltyson2001@yahoo.com
John Keenan Deputy Attorney General Idaho Department of Insurance 700 W. State St., 3 rd Floor PO Box 83720 Boise, ID 83720-0043	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: john.keenan@doi.idaho.gov
Michael Witry Deputy Attorney General Idaho Department of Insurance 700 W. State St., 3 rd Floor PO Box 83720 Boise, ID 83720-0043 <i>Counsel for Department of Insurance</i>	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: michael.witry@doi.idaho.gov



Jan Noriyuki
Paralegal

RAÚL LABRADOR
Attorney General

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Attorneys for Idaho Department of Insurance

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Idaho Department of Insurance,

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Respondent.

Docket No. 18-4451-24

**Verified Complaint and Notice of
Right to Hearing**

Comes now the staff of the Idaho Department of Insurance (“Department”), by and through its undersigned counsel, Deputy Attorney General Michael Witry, and does hereby give notice of verified allegations constituting violation(s) of Idaho law set forth below; notice that relief will be requested from the Director of the Department; a notice of the right to contest the allegations and requested relief; and the right to hearing to:

EXHIBIT

A

exhibitsticker.com

Controlling Law

4. Idaho Code § 41-1224(1)(a) and (d) provides that the Director may suspend or revoke any surplus line broker's license:

(a) If the broker fails to file his/her annual report or to remit the tax as required by this law; and

(d) For any other applicable cause for which a producer's license may be suspended or revoked.

5. Idaho Code § 41-1224(2) – (4) provides the following:

(2) The procedures provided by chapter 10, title 41, Idaho Code, for suspension or revocation of licenses shall apply to suspension or revocation of a surplus line broker's license *see* Idaho Code § 41-1016;

(3) Upon suspending or revoking the broker's surplus line license the director shall also suspend or revoke all other licenses of the same individual under this code; and

(4) No broker whose license has been so suspended or revoked shall again be so licensed until any fines or delinquent taxes owing by him have been paid, nor, in the case of revocation, until after expiration of one (1) year from date revocation became final.

6. Idaho Administrative Procedures Act 18.06.06.012 provides that each Broker will file an annual report with the Director by March 1st of each year, of surplus line business transacted during the previous calendar year on an approved form.

7. Idaho Code § 41-1230 provides that if any broker fails to file his/her annual report prior to the first day of April after the tax is due, the broker shall be liable for a fine of twenty-five dollars (\$25.00) for each day of delinquency commencing with the second day of April.

8. Idaho Code § 41-1016(5) provides that the Director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by title 41, Idaho Code, against any person who is under investigation for or charged with a violation of title 41, Idaho Code or department rule, even if the person's license or registration has been surrendered or has

lapsed by operation of law.

Count I`

9. The foregoing paragraphs are realleged and incorporated as if set forth in full.

10. Respondent did not file an annual report of surplus lines business by March 1, 2024.

11. On March 7, 2024, the Department sent a notice of late filing to Respondent via email to the last known address. No response was received from Respondent.

12. On May 13, 2024, the Department left a voicemail message for Respondent at the last known telephone number. No response was received from Respondent.

13. On June 14, 2024, the Department sent a final demand letter to Respondent via email and certified mail to the last known addresses on file with the Department. No response was received from Respondent.

14. As of the undersigned date, Respondent has not filed her annual report of surplus lines business for 2023 as required.

15. Respondent has violated Idaho Code § 41-1224(a) by failing to file an annual report of surplus line business transacted during 2023 in violation of Idaho Administrative Procedures Act 18.06.06.012.

16. Pursuant to Idaho Code §§ 41-1224(3) and (4), the Department seeks to revoke Respondent's Idaho Non-Resident Insurance Producer License and Idaho Non-Resident Surplus Lines Broker License NPN 2178367. Respondent shall not be so licensed until all fines and/or delinquent taxes owing by Respondent have been paid and until after expiration of one (1) year from the effective date of the Order of Revocation.

Prayer for Relief

Based on the foregoing facts and allegations, the Department prays for relief as follows:

1. For an Order revoking Respondent's Idaho Non-Resident Producer License and Idaho Non-Resident Surplus Lines License NPN 2178367;
2. Respondent shall not be so licensed under title 41, Idaho Code until all fines and/or delinquent taxes owing by Respondent have been paid and until after expiration of one (1) year from the effective date of the Order of Revocation.
3. For an Order imposing a fine against Respondent in the amount of \$25.00 for each day between April 2, 2024, and the date of the Order.
4. For such other and further relief as the Director deems just and necessary under the circumstances.

Notification of Right to Hearing

To: Respondent, Denise Payton

Pursuant to Idaho Code § 41-232A, you have the right to a hearing on this matter. In order to exercise this right, a written request for a hearing must be filed and served upon the Department within twenty-one (21) days after service of this Complaint. Failure to file and serve a written request for a hearing upon the Department within the 21-day time period shall be deemed a waiver of the opportunity for a hearing and to contest the allegations in the Complaint, pursuant to Idaho Code § 41-232A(2). If you fail to submit a timely written response to the allegations within 21 days of the service of this Complaint, a final order will be entered imposing the relief described above.

Any written request for a hearing shall be served on the Director of the Idaho Department of Insurance, addressed as follows:

Dean L. Cameron, Director
Idaho Department of Insurance
P.O. Box 83720
Boise, ID 83720-0043

A copy shall also be provided to the Department's counsel in this matter at the following address:

Michael Witry
Deputy Attorney General
Idaho Department of Insurance
P.O. Box 83720
Boise, ID 83720-0043

In lieu of a hearing, this matter may be resolved by negotiation, stipulation, agreed settlement, or consent order, pursuant to Idaho Code § 67-5241(1)(c). Should you wish to discuss these options, please contact the undersigned deputy attorney general.

Dated this 15th day of August, 2024.

State of Idaho
Office of the Attorney General



Michael Witry
Deputy Attorney General
Attorneys for Idaho Department of Insurance

Verification

State of Idaho)
 : ss.
County of Ada)

I, Lynn Shelton, Premium Tax Specialist for the Idaho Department of Insurance, being first duly sworn, deposes and states as follows:

I am an authorized representative of the Complainant, Idaho Department of Insurance, in the above-entitled action, and I have the authority to sign this verification on its behalf.

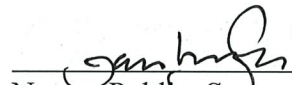
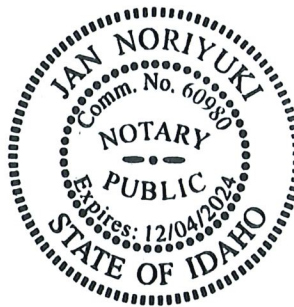
I have read the foregoing Verified Complaint and Notice of Right to Hearing and know the contents thereof. Under penalty of perjury pursuant to the laws of the State of Idaho, verify that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated this 1 day of August, 2024.



Lynn Shelton, APIR
Idaho Department of Insurance

Subscribed and sworn to before me the undersigned Notary Public of Idaho this 1st day of August, 2024.



Notary Public, State of Idaho
My Commission Expires: 12-4-2024

Certificate of Service

I hereby certify that on this 1st day of August, 2024, I caused a true and correct copy of the foregoing Verified Complaint and Notice of Right to Hearing to be served upon the following parties by the designated means:

Denise Payton 10727 S. Wallace St. Chicago, IL 60628-3207	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email: msdltyson2001@yahoo.com
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Jan Noriyuki
Paralegal