

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
REVOCATION OF LICENSING
AUTHORITY OF:

Bertsche and Berry, Inc.
321 W. Madison Street
Pontiac, Illinois 61764

and

Earl D. Bertsche
210 Westview Drive
Pontiac, Illinois 61764

ORDER OF REVOCATION

I, Michael T. McRaith, Director of Insurance of the State of Illinois, hereby revoke the license of Earl D. Bertsche (Licensee) and the license of Bertsche and Berry, Inc. (Business Entity) to take effect 30 days from the date of mailing of this Order pursuant to Section 5/500-70 of the Illinois Insurance Code. (215 ILCS 5/500-70)

Based upon an investigation and review of the Licensee and the Business Entity by the Producer Section of the Illinois Department of Insurance, the Department alleges that:

- A. On August 10, 2007, an Illinois consumer issued a check to the Business Entity and Licensee for insurance in the amount of \$56,500.00. Additionally, on June 30, 2008, an Illinois consumer issued a check to the Business Entity and Licensee for insurance in the amount of \$18,482.50.

The Illinois consumer was given the impression that their insurance was placed through separate insurers for the 2007 and 2008 policy years. Neither insurer has ever received payments on behalf of the Illinois consumer. On June 29, 2009, the Licensee admitted to the Illinois consumer that he did not forward the premiums to any insurer.

On November 21, 2008, the Business Entity and Licensee negotiated a check from another Illinois consumer for commercial insurance in the amount of \$114,842.00.

The Business Entity and Licensee brokered the policy through another licensee. As of September 10, 2009, the Business Entity and Licensee have failed to forward \$61,391.78 of premiums due to the other licensee. The premiums were due no later than September 2, 2009.

By improperly withholding insurance premiums due an insurer or other licensee, the Business Entity and Licensee have violated Section 5/500-110(a) of the Illinois Insurance Code (215 ILCS 5/500-110(a) which is a ground for revocation pursuant to Section 5/500-70(a)(4) of the Illinois Insurance Code. (215 ILCS 5/500-70(a)(4)) Additionally, the Business Entity and Licensee have violated an insurance law and have demonstrated untrustworthiness and financial irresponsibility which are grounds for revocation pursuant to Section 5/500-70(a)(2) and (8) of the Illinois Insurance Code. (215 ILCS 5/500-70(a)(2) and (8))

- B. From June 17, 2008 through November 14, 2008, the Business Entity and Licensee issued four (4) fraudulent certificates representing commercial property insurance for three (3) Illinois consumers.

The insurer has indicated that none of the certificates are valid.

By issuing fraudulent certificates of insurance, the Licensee and Business Entity have misrepresented the terms of actual or proposed insurance contracts and demonstrated incompetence and financial irresponsibility which are grounds for revocation pursuant to Section 5/500-70(a)(5) and (8) of the Illinois Insurance Code. (215 ILCS 5/500-70(a)(5) and (8))

- C. On November 19, 2008, the Business Entity and Licensee entered a promissory note with an insurer to repay \$334,175.48 for premium due and owed to the insurer. The agreement required payments to be made on the first of each month for a period of twelve (12) months. The Business Entity and Licensee made the following payments: \$32,000.00 on January 2, 2009; \$29,379.33 on February 5, 2009;

2009; and \$29,379.37 on June 8, 2009. No payments have been made since June 8, 2009, which leaves a balance due of \$155,278.67.

By defaulting on a promissory note with an insurer that represented premiums due, the Licensee and Business Entity have demonstrated incompetence, untrustworthiness and financial irresponsibility which are grounds for revocation pursuant to Section 5/500-70(a)(8) of the Illinois Insurance Code. (215 ILCS 5/500-70(a)(8))

The licensee may make written demand upon the Director within 30 days of the date of mailing of this Order of Revocation for a hearing on this Order before the Director. Any correspondence concerning this Order of Revocation shall be address to the Department of Insurance, Producer Section, 320 West Washington Street, Springfield, Illinois 62767-0001.

The Licensee is hereby further notified that he is assessed a civil penalty of \$100,000.00 by the Director of Insurance. Said civil penalty shall be paid to the Director of Insurance within 30 days of the date of mailing, but shall be stayed if within the 30 day period a written request for hearing is filed with the Director.

50 Ill. Adm. Code 2402 governs hearings before the Department of Insurance. Section 5/408(5)(a) of the Illinois Insurance Code (215 ILCS 5/408) and 50 Ill. Adm. Code 2402.270(d) provide that the costs of a hearing may be assessed against the parties.

9-10-9
Date

DEPARTMENT OF INSURANCE
STATE OF ILLINOIS



Michael T. McRaith, Director