

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 11058-AG12-0330-025

IN THE MATTER OF:)

Michael J. Collier)
913 Charlotte Avenue)
Fort Wayne, IN 46805)

Respondent,)

Type of Agency Action: Enforcement)

License Number: 729923)

FILED

OCT 04 2012

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 28, 2012, the Administrative Law Judge, filed her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended order and Notice of Filing Recommended Order on Respondent by mailing the same to his home address.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's license is on probation for a period of one (1) year.
 - a. Respondent is to comply with Ind. Code § 27-1-15.6-17(b) and report any future criminal prosecutions initiated in any jurisdiction within thirty (30) days after the initial hearing date.

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

2012.

ALL OF WHICH IS ORDERED by the Commissioner this 4th day of ~~September~~ October,


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Michael Collier
913 Charlotte Avenue
Fort Wayne, IN 46805

Michael F. Mullen
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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STATE OF INDIANA
DEPT. OF INSURANCE

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER**

Administrative Law Judge, Debra M. Webb, had to disqualify herself from rendering an opinion on this matter. Holly Williams was appointed to serve as the Administrative Law Judge in this matter pursuant to IC § 4-21.5-3-9. Administrative Law Judge, Holly Williams, having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Michael J. Collier ("Respondent"), which came to be heard on May 31, 2012, at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana 46204.

The Indiana Department of Insurance (the "Department") was represented by counsel, Nikolas P. Mann. Respondent appear in person without counsel. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence. Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact, Conclusions of Law, and issues a Recommended Order.

FINDINGS OF FACT

1. Respondent is a resident insurance producer, carrying producer's license number 729923. *Exhibit 1.*
2. On March 9, 2012, the Department received a letter from Primerica Life Insurance Company ("Primerica") informing the Department that Primerica terminated Respondent's affiliation. *Exhibit 2.*
3. Primerica's letter stated it received information indicating that Respondent had been arrested on March 3, 2012, due to a altercation at a bar resulting in another individual's death. *Exhibit 2.*
4. After receiving Primerica's letter, the Department began its investigation. *Transcript pgs. 15, 19.*
5. On March 5, 2012, an initial hearing was held in Allen County Superior Court, addressing the preliminary charges of Murder and Aggravated Battery filed against Respondent. Both charges were dismissed and Respondent was released on his own recognizance. *Exhibit 3.*
6. No formal charges were filed against Respondent. Kim Richards, Allen County Prosecutor, stated that the "evidence suggests Michael J. Collier ... acted in self-defense when he shot [individual]." *Exhibit 4.*
7. Respondent did not inform the Department of the preliminary charges filed against Respondent in Allen County. *Transcript pp. 9.*
8. Respondent acknowledged his failure to report to the Department and stated that it was a mistake on his part. *Transcript pp. 9.*
9. During the Department's investigation, Investigator Mike Herndon discovered Respondent had been involved in another criminal incident. *Transcript pgs. 23-24.*

10. In April 1989, Respondent was charged with Burglary, a Class C felony, in Allen County Superior Court. *Exhibit 5.*

11. On October 17, 1989, the charge was reduced to Criminal Trespass, a Class A misdemeanor and Respondent pled guilty. Respondent was sentenced to the Indiana Department of Correction for one (1) year executed and one (1) year suspended. *Transcript pp. 26; Exhibit 6.*

12. On October 17, 1989, the Court suspended the sentence and placed Respondent under supervision of the Adult Probation Department for one (1) year. *Exhibit 6.*

13. On August 20, 2010, Respondent completed the application for an Indiana resident producer's license. *Exhibit 7.*

14. The application asks whether the applicant has ever been convicted of a crime or currently charged with committing a crime. The question further elaborates that "crime" "includes misdemeanor, felony, or military offense." Respondent answered "No" to that question. *Exhibit 7.*

15. Respondent admitted he failed to disclose the 1989 misdemeanor. Respondent stated that he was not trying to "mislead anybody or lie on the application. It was just a mistake and I apologize for that." *Transcript pp. 8.*

16. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code and all procedures and rules set forth by such Act have been followed in this matter.

3. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.

4. Ind. Code § 27-1-15.6-12(b)(1) states “The commissioner may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes... [p]roviding incorrect, misleading, incomplete, or materially untrue information in a license application.”

5. Ind. Code § 27-1-15.6-12(b)(3) states “The commissioner may reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes...[o]btaining or attempting to obtain a license through misrepresentation or fraud.”

6. Respondent admitted to failing to disclose his twenty (20) year old misdemeanor conviction on his producer license application. Respondent stated that he did not intend to mislead anyone and that it was an error on his part.

7. Ind. Code § 27-1-15.6-17(b) states “[n]ot 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. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.”

8. Respondent stated that did not inform the Department of the preliminary charges filed against Respondent in Allen County and apologized for his mistake.

9. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. Respondent’s license should be placed on probationary status and remain as such for a period of one (1) year.

a. Respondent is required to comply with Ind. Code § 27-1-15.6-17(b) and report any future any criminal prosecutions initiated in any jurisdiction within thirty (30) days after the initial hearing date.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 28th day of August, 2012.


Holly Williams
Administrative Law Judge

Distribution:

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Fort Wayne, IN 46805

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