

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:11885-AD13-0130-003

IN THE MATTER OF:)
)
Insurance Agent License)
Application of:)
)
George Bland Scott)
2121 Plover Springs Drive)
Plover, WI 54467)

FILED

JUN 06 2013

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On May 22, 2013, the appointed Administrative Law Judge, Holly Williams, 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 of Recommended Order on Applicant 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. Applicant has notified the Department of his intention not to object to the Administrative Law Judge's Recommended Order.

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:

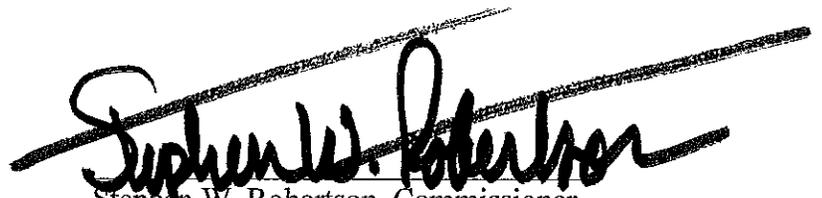
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial of February 1, 2013 is reversed and Applicant is granted an independent adjuster license.
2. Applicant's independent adjuster license is subject to a probationary period of one (1) year from the date of this Final Order.

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

ALL OF WHICH IS Ordered by the Commissioner this 6th day of June, ~~May~~

2013.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

George B. Scott
2121 Plover Springs Drive
Plover, WI 54467

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:11885-AD13-0130-003

IN THE MATTER OF:)
)
Insurance Agent License)
Application of:)
)
George Bland Scott)
2121 Plover Springs Drive)
Plover, WI 54467)

FILED

MAY 22 2013

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties to this action are hereby notified that the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order are deemed filed as of this date.

To preserve an objection to this Order for judicial review, you must object to the Order in a writing that: (1) identifies the basis of your objection with reasonable particularity; and (2) is filed with the ultimate authority for the Final Order, Stephen W. Robertson, Commissioner of the Department of Insurance, within eighteen (18) days from the date stamped on this Order.



Holly Williams
Administrative Law Judge

Distribution:
Robert L. Hummel
Indiana Department of Insurance
Washington Street, Suite 103
Indianapolis, Indiana 46204

George Bland Scott
2121 Plover Springs Drive
Plover, WI 54467

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:11885-AD13-0130-003

IN THE MATTER OF:)
)
Insurance Agent License)
Application of:)
)
George Bland Scott)
2121 Plover Springs Drive)
Plover, WI 54467)

FILED

MAY 22 2013

STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge, Holly Williams, having considered and reviewed all of the evidence, will now render a decision in the matter of Applicant George Bland Scott (“Applicant”) under Cause No. **11885-AD13-0130-003**. This matter came to be heard on February 21, 2013, before Administrative Law Judge Holly Williams at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Indiana Department of Insurance (“Department”) was represented at the hearing by counsel, Robert L. Hummel. Applicant attended the hearing and was not represented by counsel. At the hearing, witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at the hearing, the Administrative Law Judge now makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Applicant was properly notified of the above referenced hearing date and time by U.S. Certified Mail #9214 8901 0661 5400 0011 9251 76.
2. On January 18, 2013, the Department received Applicant's independent adjuster license application. *Exhibit 1.*
3. On February 1, 2013, Applicant's license application was denied due to Applicant's Class B felony for Representations Depicting Nudity, two (2) Class A misdemeanors for Exposing Genitals to a Child, and a Class A misdemeanor for Neglect of a Child in Wisconsin in January 2004. *Preliminary Administrative Order and Notice of License Denial.*
4. On February 5, 2013, Applicant requested an administrative hearing to reconsider the Commissioner's denial of his license application. *Exhibit 6.*
5. In 1990, Applicant fathered a daughter during a relationship with a woman in a Kentucky. Several years later, authorities from Kentucky contacted Applicant in Wisconsin, informing him that he had a daughter. In addition, the state of Kentucky told Applicant they were terminating the mother's parental rights and that Applicant should apply for custody. *Exhibit 8; Transcript pgs. 29-31.*
6. Applicant submitted to the custody transfer process and was awarded primary placement for his then nine (9) year old daughter. *Exhibit 8.*
7. In 2001, Applicant's daughter accused Applicant of abusing her, starving her, and forcing her to work like a slave. The accusations were found to be meritless. *Transcript pgs 32-33.*

8. In 2002, Applicant's daughter accused Applicant of sexual assault. *Exhibit 8, Transcript pg. 34.*
9. Applicant was investigated, and his house was searched as a result. During the investigation, the police found a video of Applicant's two (2) year old son and nine (9) year old daughter in the bathtub. Applicant stated that the nature of the video was not sexual and was made three (3) years prior to the investigation. *Exhibit 8, Transcript pgs. 36-38, 41.*
10. Representations depicting nudity was a Class I felony, the lowest degree in Wisconsin, in 2003 when Applicant made the agreement with prosecutors. In 2004, in the judgment phase, it became a Class E felony. Since then, the Wisconsin legislature has changed the classification to a Class B felony. *Exhibits D and 9, Transcript pgs. 46-47, 49-50.*
11. Applicant was never charged with child pornography. *Exhibit 8.*
12. In the Second Amended Information dated October 28, 2003, Applicant was charged with Representations Depicting Nudity (Class E felony), Exposing Genitals or Pubic Area (Class A misdemeanor), Exposing Genitals or Pubic Area (Class A misdemeanor), and neglect of a child (Class A misdemeanor). *Exhibit 9.*
13. Applicant stated that he did not expose his genitals to his daughter.
14. On September 24, 2008, an Order Modifying Judgment of Conviction was filed, which eliminated the provision requiring Applicant to register as a sex offender. *Exhibit C, Transcript pp. 45-46.*
15. Applicant spent nine (9) months in a county jail but had privileges that enabled Applicant to go to work and take care of his children. *Transcript pgs. 57-58.*

16. Applicant completed his probation early. *Transcript pg. 58.*
17. Applicant spent four (4) years serving in the United States Navy. Applicant served on the USS Ticonderoga, and was honorably discharged. *Transcript pgs. 27-28.*
18. Applicant submitted seventeen (17) letters of recommendation. *Exhibit B.*
19. Applicant has worked in the insurance adjusting business since 2007. *Exhibit 3.*
20. Applicant's arbitration experience includes automobile accident-related property damage claims between insurance companies. *Transcript pgs. 12-13.*
21. Applicant is currently self-employed as a catastrophic claims adjuster and operates his business, Central Wisconsin Claims Service, out of his Wisconsin home with his wife's help. *Transcript pg. 16.*
22. Applicant presently adjusts property damage claims in Wisconsin, Illinois, and Ohio and would like to work in Indiana and Michigan if he obtains his licenses in those states. *Transcript pg. 19-20.*
23. Optimal Claims Services, based in Carmel, Indiana, provides Applicant with one hundred percent of his property damage adjustment referrals. *Transcript pg. 20.*
24. Applicant has obtained multiple certificates in his field, including becoming an Associate in Claims with the Insurance Institute of America, a Haag Certified roof inspector, and a certified arbitrator. *Exhibit A.*
25. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

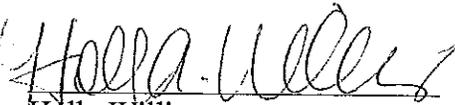
26. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
27. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, codified at Ind. Code § 4-21.5 et seq. All procedures and rules set forth by such Act have been followed in this matter.
28. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.
29. Ind. Code §27-1-28-18(b)(6) states that the Commissioner may refuse to issue an independent adjuster license if the applicant has been convicted of a felony.
30. Applicant was charged with Representations Depicting Nudity for a video tape he made three (3) years earlier of his daughter. Applicant completed probation early with no violations and has had no other convictions since.
31. Applicant has met his burden of proof to show that the Commissioner's Preliminary Administrative Order and Notice of License Denial was in error and should be reversed.
32. 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:

33. The Preliminary Administrative Order and Notice of License Denial of February 1, 2013 should be reversed, granting Applicant's independent adjuster license application on a probationary basis.
34. Applicant's independent adjuster license should be subject to a probationary period of one (1) year from the date of the Commissioner's Final Order

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 22nd day of May, 2013.


Holly Williams
Administrative Law Judge

Distribution:

George Bland Scott
2121 Plover Springs Drive
Plover, WI 54467

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:11885-AD13-0130-003

IN THE MATTER OF:)
)
Insurance Agent License)
Application of:)
)
George Bland Scott)
2121 Plover Springs Drive)
Plover, WI 54467)

FILED

MAR 27 2013

STATE OF INDIANA
DEPT. OF INSURANCE

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

The Enforcement Division of the Department of Insurance, by counsel Robert L. Hummel, having participated in a hearing in this matter on February 21, 2013, submits the following proposed findings of fact, conclusions of law, and recommended order pursuant to Ind. Code §4-21.5-3-17.

FINDINGS OF FACT

1. Applicant was properly notified of the above referenced hearing date and time by U.S. Certified Mail #9214 8901 0661 5400 0011 9251 76.
2. The Department received Applicant's independent adjuster license application on January 18, 2013. *Exhibit 1.*
3. Applicant's license application was denied on February 1, 2013 by order of the Commissioner due to Applicant having pled guilty to a Class B felony for Representations Depicting Nudity, two (2) Class A misdemeanors for Exposing Genitals to a Child, and a Class A misdemeanor for Neglect of a Child in Wisconsin in January 2004.

4. On February 5, 2013, Applicant requested an administrative hearing to reconsider the denial of his license application. *Exhibit 6.*

5. Applicant submitted W-2 and 1099 forms showing that he has worked in the insurance adjusting business from 2007 through 2012. *Exhibit 3.*

6. Applicant testified that his conviction in 2004 was for an arrest in 2002 over a video he made three (3) years prior to that. The victim was his daughter. *Transcript pp. 11-12.*

7. Applicant testified that his arbitration experience was auto accident-related property damage claims between insurance companies. *Transcript pp. 12-13.*

8. Applicant operates his business, Central Wisconsin Claim Service out of his home with the assistance of his wife. *Transcript p. 16.*

9. Applicant currently adjusts property damage claims in Wisconsin, Illinois, and Ohio and he hopes to work in Indiana and Michigan if he becomes licensed in those states. *Transcript p. 19.*

10. Optimal Claim Services, located in Carmel, Indiana, provides all of Applicant's property damage adjustment referrals. *Transcript p. 20.*

11. Applicant submitted documents showing that he is an Associate in Claims with the Insurance Institute of America, a Haag Certified roof inspector, has been a certified arbitrator, along with numerous training certificates from his former employer, Sentry Insurance. *Exhibit A.*

12. Applicant submitted seventeen (17) letters of recommendation dated from 2003, 2004, and 2013. *Exhibit B.*

13. In December 1990, Applicant pled guilty of Unlawful Delivery of Marijuana in El Paso County, Texas and was sentenced to six (6) years probation. *Exhibit 7, Transcript p. 17.*

14. Applicant testified that he was in a bar in Texas when he was asked by undercover police officers if he knew where they could purchase a large amount of marijuana. Applicant introduced the officers to people he knew who sold the marijuana. Applicant was not present at the sale but was later arrested for conspiracy to deliver and possession of marijuana. The possession charge was dropped but he pled guilty to the conspiracy to deliver charge. *Transcript pp. 25-26.*

15. Applicant testified that he has had an alcohol problem in the past, still considers himself to be an alcoholic, but stated that he has been sober since 1990. *Transcript p. 26.*

16. Applicant testified that he enlisted in the Navy in 1983 for four (4) years, that he served on the USS Ticonderoga, and was honorably discharged. *Transcript pp. 27-28.*

17. In 1990, Applicant fathered a daughter in Kentucky during a brief relationship while he worked in that state. After several years, when the child was eight (8) years old, Kentucky authorities contacted Applicant in Wisconsin and told him the mother of the child could no longer care for the child and Applicant should apply for custody which he did. *Exhibit 8, Transcript pp. 29-31.*

18. In 2001, Applicant's daughter complained to Kentucky authorities that Applicant had beaten her, starved her, and made her work like a slave but the accusations were found to be baseless. *Exhibit 8, Transcript pp. 32-33.*

19. In 2002, the daughter accused Applicant of sexual assault. *Exhibit 8, Transcript p. 34.*

20. Applicant was not charged with sexual assault but an investigation was conducted and his house was searched. A video was found of his two (2) year old son and nine (9) year old daughter nude in the bathroom. Applicant testified that the video was not of a sexual nature and was made three (3) years prior to the investigation. *Exhibit 8, Transcript pp. 36-38, 41.*

21. Applicant testified that representing depictions of nudity was a Class I felony in Wisconsin in 2003 when the agreement with the prosecutors was made. In 2004, in the judgment phase, it became a Class E felony. Since then, the Wisconsin legislature has increased the classification to a Class B felony. *Exhibits D and 9, Transcript pp. 49-50.*

22. In the Second Amended Information dated October 28, 2003, Applicant was charged with Representations Depicting Nudity (Class E felony), Exposing Genitals or Pubic Area (causing the daughter to expose her genitals) (Class A misdemeanor), Exposing Genitals or Pubic Area (exposing his genitals to the daughter) (Class A misdemeanor), and neglect of a child (Class A misdemeanor). *Exhibit 9.*

23. Applicant denied that he exposed his genitals to his daughter and pointed out that in the Order Modifying Judgment of Conviction dated September 24, 2008, which eliminated the provision for sex offender registration, the charges Applicant was convicted of did not include exposing his genitals to the daughter. *Exhibit C, Transcript pp. 45-46.*

24. Applicant testified that he spent nine (9) months in a county jail but he was able to go to work and take care of his children during that time. *Transcript pp. 57-58.*

25. Applicant testified that he completed probation early. *Transcript p. 58.*

26. Applicant has a valid Wisconsin driver's license that indicates that he moved to Wisconsin from Texas in February 1998. *Exhibit 11.*

27. Applicant's credit report does not provide a credit score but does show many accounts in good standing and no negative or collection accounts. *Exhibit 12.*

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 §27-1-28-18(b)(6) states that the Commissioner may refuse to issue an independent adjuster license if the applicant has been convicted of a felony.

5. Applicant was charged with the felony of Representations Depicting Nudity in 2002 for a video tape he made three (3) years earlier of his daughter. Applicant completed probation early with no violations and has had no other convictions since.

6. Applicant has met his burden of proof to show that the Commissioner's decision to deny the independent adjuster license application should be reversed.

7. 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. The Preliminary Administrative Order and Notice of License Denial of February 1, 2013 should be reversed, granting Applicant's independent adjuster license application on a probationary basis.

2. Applicant's independent adjuster license should be subject to a probationary period of one (1) year from the date of the Commissioner's Final Order.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2013.

Holly Williams
Administrative Law Judge

Distribution:

George Bland Scott
2121 Plover Springs Drive
Plover, WI 54467

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204