

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: ~~13138-AD14-0630-024~~

IN THE MATTER OF: )  
 )  
Insurance Producer License )  
Application of: )  
 )  
Talib Douthard )  
12437 Crystal Pointe Circle )  
Indianapolis, IN 46236 )  
 )  
Applicant )

13507-AD 14-1125-033

**FILED**

AUG 07 2015

STATE OF INDIANA  
DEPT. OF INSURANCE

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**FINAL ORDER**

On May 13, 2015, the Administrative Law Judge, Amy L. Beard, 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 Applicant by mailing the same to his home address of record.

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 Default Order, and more than eighteen (18) days have elapsed.

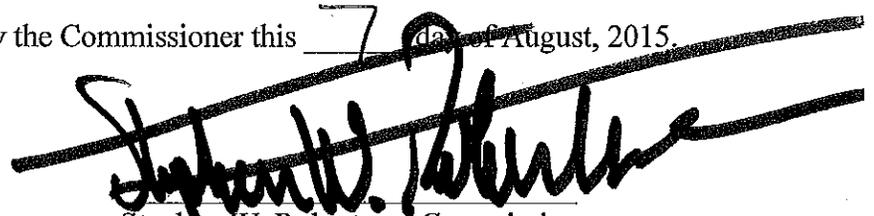
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Applicant shall be GRANTED a probationary insurance producer license for a period of two (2) years.
2. During the two (2) year probationary period, the Applicant is to report to the Department any arrests or convictions for any violation of law, except for minor traffic violations, within ten (10) days
3. During the two (2) year probationary period, the Applicant is to immediately notify the Department if he is terminated or voluntarily leaves any employment that requires him to hold an insurance producers license. Such notice shall include the reasons for the separation and his intention to stay in or to leave the insurance business.

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 7 day of August, 2015.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

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Indianapolis, Indiana 46236

Joshua Harrison  
Indiana Department of Insurance  
Enforcement Division  
311 West Washington Street, Suite 103  
Indianapolis, IN 46204-2787

STATE OF INDIANA )  
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COUNTY OF MARION )  
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BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE  
CAUSE NUMBER: 13507-AD14-1125-033

IN THE MATTER OF: )  
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Insurance Producer License )  
Application of: )  
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TALIB DOUTHARD )  
12437 Crystal Pointe Circle )  
Indianapolis, Indiana 46236, )  
 )  
Petitioner. )

**FILED**

MAY 13 2015

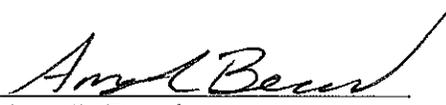
STATE OF INDIANA  
DEPT. OF INSURANCE

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**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 Recommended 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 Indiana Department of Insurance, within eighteen (18) days from the date stamped on this Notice of Filing of Recommended Order.

  
Amy L. Beard  
Administrative Law Judge

Distribution:

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Attorney, Enforcement Division  
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STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
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CAUSE NUMBER: 13507-AD14-1125-033

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**FILED**

MAY 13 2015

**STATE OF INDIANA  
DEPT. OF INSURANCE**

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

Administrative Law Judge, Amy L. Beard, (“ALJ”), having considered and reviewed all of the evidence, now renders a decision in the matter of the Insurance Producer License Application of Talib Douthard under Cause Number 13507-AD14-1125-033. This matter came to be heard by the ALJ at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, on February 12, 2015.

The Indiana Department of Insurance was represented at the administrative hearing by legal counsel, Joshua Harrison. The Petitioner, Talib Douthard, (“Petitioner”) appeared in person and without legal counsel. At the administrative hearing, witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at the hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and Recommended Order pursuant to Indiana Code § 4-21.5-3-27.

## FINDINGS OF FACT

1. On October 29, 2014, the Petitioner submitted an application for an insurance producer license (“Application”) to the Indiana Department of Insurance (“Department”).

*Exhibit 1 (“Ex. 1”).*

2. On December 18, 2014, the Commissioner of the Department (“Commissioner”) issued a Preliminary Administrative Order and Notice of License Denial denying the Petitioner’s Application for not having fully met the requirements for licensure under Indiana Code § 27-1-15.6-12(b)(6). Specifically, the Petitioner’s request for licensure was denied for having a prior felony conviction. *Preliminary Administrative Order and Notice of License Denial*

*(“Preliminary Admin. Order & Notice of License Denial”).*

3. Pursuant to Ind. Code § 27-1-15.6-12(b)(6), the Commissioner may refuse to issue an insurance producer license to a person for having been convicted of a felony.

4. On or about January 22, 2015, the Petitioner timely requested a hearing to review the Commissioner’s decision to deny the Petitioner’s Application. *Preliminary Admin. Order & Notice of License Denial.*

5. On January 30, 2015, a Notice of Hearing was issued, which set a hearing date for February 12, 2015 at 1:30 p.m. *Notice of Hearing.*

6. On February 12, 2015, a hearing in this matter was held.

7. On his Application, the Petitioner disclosed that he had been convicted of a felony. The Petitioner answered “yes” to question two (2) on the Application, which states, “Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?” *Ex. 1 p. 4; Transcript of Hearing (“Tr.”) p. 26.*

8. Along with his Application, the Petitioner submitted a copy of the Judgment and

Sentencing Order as supplemental documentation related to his felony conviction. The Petitioner was convicted of a felony in Hillsborough County, Florida in 2010. He had pleaded guilty to a Class D Felony for Leaving the Scene of a Crash with Injury and Driving with a License Suspended or Revoked. He was sentenced to thirty-six (36) months of probation. *Exhibit 2* (“*Ex. 2*”); *Tr. p. 19, 27-28.*

9. At the administrative hearing in the matter, the Petitioner testified that he had finished his court ordered community service, paid all court fees and fines, and had completed his probation. *Tr. p. 9-10.*

10. The Petitioner testified about his positive life changes since his felony conviction. In the past, the Petitioner’s focus was to play professional football, and he played in the National Football League (“NFL”). The Petitioner testified that he took that opportunity for granted and made careless, immature decisions without appreciating the negative future impact of his actions. Today, the Petitioner’s focus is no longer on football, but is on providing financial and emotional stability for his wife of two (2) years, their infant son, and his wife’s three (3) children. Since his felony conviction, the Petitioner has not had any additional arrests or convictions. *Tr. p. 11, 14-17, 37.*

11. The Petitioner is employed with World Financial Group (“WFG”). His job duties are limited to clerical work because he does not hold an insurance producer license. *Tr. p. 22.*

12. The Petitioner has completed his insurance producer education requirements and has passed the exam for licensure. *Tr. p. 11.*

13. The Petitioner has been forthcoming and candid with his prior felony conviction. Although the Petitioner regrets his criminal past, he does not avoid responsibility. He testified, “I can’t change the past and I can only move forward, and be a better person and make better

decisions moving forward.” *Tr. p. 14-17, 27, 37.*

14. 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. *See I.C. §§ 27-1-15.6 et seq. and 4-21.5-3 et seq.*

2. This hearing was held in compliance with Indiana’s Administrative Orders and Procedures Act (“Act”), codified at I.C. § 4-21.5-3 *et. seq.*

3. The Petitioner received notice of the Preliminary Administrative Order and Notice of License Denial, in compliance with I.C. §§ 4-21.5-3-1 and 27-1-15.6-12(d).

4. Pursuant to I.C. § 27-1-15.6-12(b)(6), the Commissioner may refuse to issue an insurance producer license to a person having been convicted of a felony.

5. The Petitioner was convicted of a felony in Hillsborough County, Florida in 2010.

6. The Petitioner was forthcoming and candid with his felony conviction.

7. Despite his felony conviction, the Petitioner has shown that he has taken positive steps towards reformation. The Petitioner is employed with WFG and is dedicated to providing for his family.

8. The Petitioner has met his burden of proof and shown that the Preliminary Administrative Order and License Denial was in error.

9. Findings of Fact that can be adopted as Conclusions 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 December 18, 2014, shall be reversed, and the Petitioner shall be GRANTED a probationary insurance producer license for a period of one (1) year.
2. During the one (1) year probationary period, the Petitioner shall report to the Department any arrests or convictions for any violation of law, except for minor traffic violations, within seven (7) days thereof.
3. During the one (1) year probationary period, the Petitioner shall immediately notify the Department if he is terminated or voluntarily leaves any employment that requires him to hold an insurance producers license. Such notice shall include the reasons for the separation and his intention to stay in or to leave the insurance business.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 13<sup>th</sup> day of May, 2015.



Amy L. Beard  
Administrative Law Judge

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STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER:13507-AD14-1125-033

IN THE MATTER OF: )  
 )  
TALIB DOUTHARD )  
 )  
Applicant )  
 )  
12437 Crystal Point Circle )  
Indianapolis, IN 46236 )  
Type of Agency Action: Enforcement )

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

At the conclusion of the hearing in this matter, the parties were asked to submit Proposed Findings of Fact, Conclusions of Law, and Recommended Order within Thirty (30) days of the hearing date of February 12, 2015. The Enforcement Division hereby timely submits its Proposed Findings of Fact, Conclusions of Law, and Recommended Order.

Administrative Law Judge Amy Beard, having considered and reviewed all of the evidence, will now render a decision in the matter of Applicant Talib Douthard ("Applicant"). This matter came to be heard by Amy Beard, at 1:32 p.m. at the Indiana Department of Insurance.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Joshua Harrison. Applicant appeared in person and without legal counsel. 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 the Recommended Order.

### **FINDINGS OF FACT**

1. Applicant submitted an application for an Indiana Producer's License on October 29, 2014.
2. On December 18, 2014, the Department filed its "Preliminary Administrative Order and Notice of License Denial" ("the Order").
3. The Order noted that on the application, the Applicant disclosed that he had been convicted of a felony.
4. Citing Indiana Code § 27-1-15.6-12(b)(6), the application was denied due to having said conviction.
5. The Order further notified the Applicant that should he wish for a review of this decision, he must notify the Department within sixty-three (63) days.
6. The Applicant notified the Department that he wished to have a hearing on the matter.
7. A hearing was conducted on February 12, 2015 with the Applicant present in person without counsel and the Department represented by attorney Josh Harrison.
8. During the hearing, the Applicant admitted to disclosing the prior conviction on his application.
9. The Applicant stated that he made an "unfortunate decision" when he left the scene of an accident involving injury to a person.
10. Applicant cited his immaturity as a factor for his poor decision-making.

11. The Department entered into evidence as exhibit 1 a copy of the Producer Application that was submitted by the Applicant on October 29, 2014.

12. On page four (4) of the application, Applicant admitted that he had been convicted of a felony.

13. The Department then entered into evidence as exhibit 2 a copy of the "Judgment and Sentence" out of Hillsborough County, Florida.

14. Exhibit 2 was provided by the Applicant to the Department in reference to the felony listed on the application.

15. Exhibit 2 listed the charges in which Applicant plead guilty as (1) Leaving Scene of a Crash with Injury, and (2) Driving while License Suspended or Revoked.

16. Exhibit 2 shows that the Applicant was sentence to thirty-six (36) months.

17. The Department entered into evidence Exhibit 3 which was an 11 page facsimile from the Hamilton County Clerk of Courts, in Cincinnati, Ohio.

18. Exhibit 3 showed two additional felony convictions for Applicant which were not listed on Applicants original application for licensure.

19. Exhibit 3 showed that Applicant had been arrested and convicted of Carrying a Concealed Weapon on February 11, 1999.

20. Exhibit 3 also showed that Applicant had been arrested and convicted of Possession of Marijuana in an amount greater than one thousand (1000) grams on May 4, 2000.

21. On cross-examination, Applicant admitted to having been convicted of those offenses, but claimed that those convictions were subsequently overturned on appeal.

22. The Department then entered into evidence Exhibit 4 which was a case summary of an arrest for Organized Grand Fraud and Grand Theft in the state of Florida.

23. Upon cross-examination, Applicant admitted that he had been charged, but eventually the charges were dismissed when he repaid the sum of the loss.

### 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.

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

4. Indiana Code § 27-1-15.6-12(b) states that the Commissioner may deny a license application due to a number of factors.

5. Specifically Indiana Code § 27-1-15.6-12(b)(6) lists having been convicted of a felony as one of the factors that the Commissioner may use in denying an application for producer's license.

6. Additionally Indiana Code § 27-1-15.6-12(b)(1) states that the Commissioner may deny a license for providing incorrect, misleading, incomplete, or materially untrue statements on the application.

7. Indiana Code § 4-21.5-5-14(a) places the burden of demonstrating the invalidity of the agency action upon the party requesting the judicial review.

8. Indiana Code § 4-21.5-5-14(d)(1) requires that the party seeking judicial review must show the agency action was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

9. Applicant’s 2010 conviction for Leaving the Scene of a Crash with Injury is a felony conviction sufficient to warrant license denial under Indiana Code 27-1-15.6-12(b)(6).

10. Furthermore, Applicant’s failure to list the 1999 Firearm conviction in Ohio, 2000 Possession of Marijuana conviction in Ohio, and Organized Grand Fraud and Grand Theft arrests in Florida qualify as incomplete information to justify action under Indiana Code 27-1-15.6-12(b)(1).

11. 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. That the denial of Applicant’s Indiana Producer License application be affirmed.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Amy Beard  
Administrative Law Judge

Distribution:

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