

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13858-AD15-0225-008

IN THE MATTER OF: )  
 )  
Insurance Producer License )  
Application of: )  
 )  
Matthew T. Smith )  
137 Greenbriar Court )  
Athens, Georgia 30606 )  
 )  
Applicant )

**FILED**

DEC 04 2015

STATE OF INDIANA  
DEPT. OF INSURANCE

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**FINAL ORDER**

On October 21, 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 Findings of Fact, Conclusions of Law and 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:

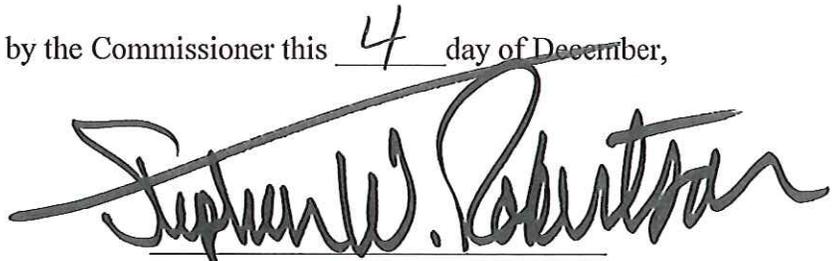
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial is REVERSED.

2. Applicant is GRANTED a non-resident insurance producer license.

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 4 day of December, 2015.



Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Matthew T. Smith  
137 Greenbriar Court  
Athens, Georgia 30606

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

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Athens, Georgia 30606, )  
 )  
Petitioner. )

**FILED**  
OCT 21 2015  
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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:

MATTHEW T. SMITH  
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Athens, Georgia 30606

BRIGITTE COLLIER  
Attorney, Enforcement Division  
Indiana Department of Insurance  
311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204

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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 Matthew T. Smith under Cause Number 13858-AD15-0225-008. This matter came to be heard telephonically by the ALJ at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, on February 12, 2015.

The Petitioner, Matthew “Tom” Smith, (“Petitioner”) appeared telephonically and without legal counsel. The Respondent, the Indiana Department of Insurance (“Department”), was represented at the administrative hearing by legal counsel, Brigitte Collier. 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 ALJ now makes the following Findings of Fact, Conclusions of Law, and Recommended Order pursuant to Indiana Code section 4-21.5-3-27.

## FINDINGS OF FACT

1. On or about February 17, 2015, the Petitioner submitted an application for a nonresident insurance producer license (“Application”) to the Department. *Transcript of Hearing (“Tr.”) at p. 7.*
2. On February 27, 2015, the Commissioner issued a Preliminary Administrative Order and Notice of License Denial (“Denial Order”) denying the Petitioner’s Application. Specifically, the Petitioner’s request for licensure was denied because he had “not fully met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12 due to his previous Indiana producer license denial.” *Denial Order.*<sup>1</sup>
3. On or about March 9, 2015, the Petitioner timely requested a hearing to determine the reasonableness of the Commissioner’s decision to deny the Petitioner’s Application. *Notice of Hearing.*
4. An administrative hearing in this matter was held telephonically on March 26, 2015 at 10:00 p.m.
5. At the administrative hearing, counsel for the Department stated that the Petitioner’s Application was denied under I.C. § 27-1-15.6-12(b)(9), which provides that the Commissioner may refuse to issue an insurance producer license for “[h]aving an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.” *Tr. p. 16, 18.*
6. In 2012, the Petitioner previously submitted an application for an insurance producer license to the Department. On December 7, 2012, a Preliminary Administrative Order

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<sup>1</sup> Paragraph two (2) of the Denial Order states, “Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-6 and Indiana Code § 27-1-15.6-12.” In this matter, however, the Petitioner is required to meet the requirements for nonresident producer licensure under I.C. § 27-1-15.6-8.

and Notice of License Denial was issued denying the Petitioner's application for having provided "incorrect, misleading, incomplete, or materially untrue information in a license application," a violation of I.C. § 27-1-15.6-12(b). When the Petitioner had submitted his application, documents disclosing his administrative actions in Alabama and Georgia had failed to transmit electronically to the Department. The Department contacted the Petitioner about such administrative actions. Despite the Petitioner subsequently submitting the documentation, the Department denied his application. Additionally, during the same time period that the Petitioner had applied for licensure from Indiana, he had submitted insurance producer license applications to other states, which were all approved. As such, the Petitioner did not request an administrative hearing to determine the reasonableness of the Department's denial in 2012. *Tr. p. 11, 16; Exhibit A ("Ex. A")*.

7. In the present matter, the Petitioner submitted his Application and voluntarily disclosed his two (2) administrative actions in Alabama and his two (2) administrative actions in Georgia to the Department. *Tr. p. 19-21*.

8. The Petitioner is licensed as a resident insurance producer in Georgia and is in good standing. He also is licensed as a nonresident insurance producer in the following ten (10) states: Alabama; Kentucky; Texas; Tennessee; Mississippi; South Carolina; Illinois; Pennsylvania; Oklahoma; and Ohio. The Petitioner has been a licensed insurance producer for fifteen (15) years. *Tr. p. 7-8, 21-22*.

9. The Petitioner testified at the hearing to explain the events surrounding his administrative actions taken against him in Alabama and Georgia. *Tr. at pp. 11-12, 20-21*.

#### Alabama

a. The first administrative action in Alabama occurred over twenty (20) years

ago in 1991-1992.

- b. The Petitioner was in college when wrote a check for less than \$5.00 which was returned to the bank. He had to pay a \$100.00 fine.
- c. The second administrative action in Alabama was for not completing continuing education credits in a timely manner.

Georgia

- d. The two (2) administrative actions in Georgia occurred in 2010 and 2012 for the Petitioner having failed to timely renew his license.
- e. At the time, license renewals in Alabama went by birthday month and license renewals in Georgia went by the New Year. The Petitioner moved from Alabama to Georgia, and failed to renew by the New Year. Subsequently, Georgia moved from the New Year to the birthday month, and the Petitioner failed to timely renew his license a second time.

10. With the exception of Indiana, the Petitioner has never been denied a nonresident insurance producer license by any other state. *Tr. at pp. 11-12.*

11. The Petitioner considers his Application denial in Indiana to be the most serious matter that he has been involved in with any state insurance department. He does not have any issues with any other states and seeks to rectify this matter with Indiana. The Petitioner does not want any state insurance department to look at him in a negative light. *Tr. p. 11-12.*

12. 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)(9), the Commissioner may refuse to issue an insurance producer license to a person for having had "an insurance producer license, or its equivalent, denied, suspended, or revoked in any *other* state, province, district, or territory." (emphasis added).

5. The Department refused to issue a nonresident insurance producer license to the Petitioner for having had an insurance producer license denied by the Department in 2012.

6. The Petitioner has not been denied an insurance producer license in any state other than Indiana.

7. Thus, because the Petitioner has not had an insurance producer license denied, suspended, or revoked in any *other* state, the Petitioner's Application should not have been denied under I.C. § 27-1-15.6-12(b)(9).

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

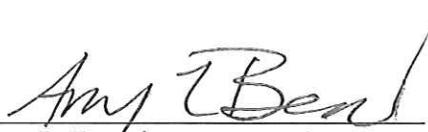
9. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

**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 shall be reversed.
2. The Petitioner shall be GRANTED a non-resident insurance producer license.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 21 day of ~~September~~<sup>October</sup> 2015.

  
\_\_\_\_\_  
Amy L. Beard  
Administrative Law Judge

Distribution:

MATTHEW T. SMITH  
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BRIGITTE COLLIER  
Attorney, Enforcement Division  
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311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

Cause No.: 13858-AD15-0225-008

IN THE MATTER OF: )  
 )  
INSURANCE PRODUCER LICENSE )  
APPLICATION OF: )  
 )  
Matthew T. Smith )  
127 Greenbriar Ct )  
Athens, GA 30606 )

**FILED**

FEB 27 2015

STATE OF INDIANA  
DEPT. OF INSURANCE

**PRELIMINARY ADMINISTRATIVE ORDER**  
**AND NOTICE OF LICENSE DENIAL**

The Indiana Department of Insurance, pursuant to the Indiana Administrative Act, Indiana Code §4-21.5-1 et seq. and Indiana Code §27-1-15.6-12, hereby gives notice to Matthew T. Smith (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on February 17, 2015.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code §27-1-15.6-6 and Indiana Code §27-1-15.6-12.
3. ✧Indiana Code §27-1-15.6-12(b) provides, in part, that the Commissioner may refuse to issue or renew an insurance producer license for violating an insurance law.
4. Following a review of materials submitted by Applicant in support of his application, the Commissioner being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure as stated by Indiana Code §27-1-15.6-12 due to his previous Indiana producer license denial.

5. Indiana Code §27-1-15.6-12(d) provides that the applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or non renewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action.

**IT IS THEREFORE ORDERED** that the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §27-1-15.6-12 (b).

2-27-15  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

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Calla Dain, Insurance Investigator  
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**CERTIFIED MAIL RECEIPT: 9214 8901 0661 5400 0051 1607 04**