

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 14691-AD15-1026-044

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Kyle Etter)
158 Diplomat Ct Apt# 5)
Beech Grove, IN 46107)
)
Type of Agency Action: Enforcement)

FILED

JUN 23 2016

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On April 29, 2016, the Administrative Law Judge, Reuben B. Hill, filed his 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 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 refusal to issue Applicant's Indiana Producer License is reversed due to the nature of the conviction, the length of the time since the conviction and the fact that Applicant has not been convicted of any other criminal convictions.

2. Applicant's resident producer license is granted and placed on a probationary status for a period of one (1) year.

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.

ALL OF WHICH IS ORDERED by the Commissioner this 23 day of June, 2016.

A handwritten signature in black ink, appearing to read "Stephen W. Robertson", is written over a horizontal line.

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Kyle Etter
158 Diplomat Ct Apt# 5
Beech Grove, IN 46107

Brigitte Collier, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

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APR 29 2016

STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge Reuben B. Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Applicant Kyle Etter (“Applicant”). This matter came to be heard by Judge Reuben B. Hill, on December 9, 2015 at 10:18 a.m. at the Indiana Department of Insurance. A Status Conference was held on Wednesday, March 16, 2016 at 10:00 a.m. and on April 19, 2016 at 10:00 a.m.

The Enforcement Division of the Indiana Department of Insurance (“Department”) was represented by counsel, Brigitte Collier. 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 resident producer's license on October 16, 2015.
2. On November 24, 2015, the Department filed its "Preliminary Administrative Order and Notice of License Denial" ("the Order").
3. Service of process was completed via the United States Mail in compliance with the statute and due process requirements.
4. The Order noted that on the application, the Applicant disclosed that he had been convicted of conversion on January 26, 2011, a Class A misdemeanor.
5. Citing Indiana Code § 27-1-15.6-12(b)(8), the application was denied due to having been convicted of conversion, which demonstrates dishonest practices, or untrustworthiness or financial irresponsibility in the conduct of business in Indiana or elsewhere.
6. The Order further notified the Applicant that should he wish for a review of the decision, he must notify the Department within sixty-three (63) days.
7. The Applicant notified the Department that he wished to have a hearing on the matter.
8. A hearing was conducted on December 9, 2015 with the Applicant present telephonically and without legal counsel and the Department represented by attorney Brigitte Collier.
9. During the hearing, the Applicant admitted to having been convicted of conversion when he was 20 years old.

10. The Department entered into evidence State Exhibit 1 as a copy of Applicant's Criminal conviction and Arrest Affidavit from the State of Indiana County of Johnson in the Greenwood City Court.

11. Exhibit 1 shows the charge of conversion and a narrative of the incident and probable cause for the charge.

12. Applicant entered into evidence, Exhibit A as a copy of his statement explaining his circumstances at the time of the incident; his current circumstances which include having a child to care for, who is also his motivation; and improvements that he has made in his life and his future goals.

13. Applicant further stated that he has worked hard to obtain gainful employment however; he is currently on an unpaid leave from his job until he is able to obtain his license.

14. The Department then requested that the Court take judicial notice of Indiana Code § 27-1-15.6-12(b)(8) which gives the Commissioner the authority to deny an insurance producer's license request for dishonest practices, or untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

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

4. Specifically Indiana Code § 27-1-15.6-12(b)(8) states that the Commissioner may deny a license for dishonest practices, or untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

5. 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.

6. 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.”

7. Applicant’s conviction of conversion warrant license denial under Indiana Code § 27-1-15.6-12(b)(8).

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

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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 refusal to issue Applicant's Indiana Producer License be reversed due to the nature of the conviction, the length of the time since the conviction and the fact that Applicant has not been convicted of any other criminal convictions.
2. Applicant's resident producer license shall be granted and placed on a probationary status for a period of one (1) year.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 29th day of April, 2016.



Reuben B. Hill
Administrative Law Judge

Distribution:

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Indianapolis, IN 46204

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NOV 24 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 Kyle Etter (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on October 16, 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 using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
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 his January 26, 2011 conviction for Conversion, a Class A Misdemeanor.

6. 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 Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §27-1-15.6-12 (b).

11/24/15

Date Signed



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

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