

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO.: 15136-AD16-0315-013

IN THE MATTER OF: )  
 )  
INDEPENDENT ADJUSTER LICENSE )  
APPLICATION OF: )  
 )  
William J. Bennett )  
12584 Cold Stream Rd )  
Noblesville, IN 46060 )  
 )  
Type of Agency Action: Enforcement )

**FILED**

JUN 23 2016

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On May 12, 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 independent adjuster License is affirmed.

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.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

William Bennett  
12584 Cold Stream Rd  
Noblesville, IN 46060

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

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MAY 12 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 William J. Bennett ("Applicant"). This matter came to be heard by Judge Reuben B. Hill, on April 19, 2016 at 10:10 a.m. at the Indiana Department of Insurance.

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 independent adjuster license on February 26, 2016.

2. On March 18, 2016, 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 two (2) felony convictions for operating a vehicle while intoxicated.
5. Citing Indiana Code § §27-1-28-18(b)(6), the application was denied due to having been convicted of two (2) felony convictions for operating a vehicle while intoxicated.
6. The Order further notified the Applicant that should he wish for a review of the decision, he must notify the Department within thirty (30) days.
7. The Applicant notified the Department that he wished to have a hearing on the matter.
8. A hearing was conducted on April 19, 2016 with the Applicant present in person and without legal counsel and the Department represented by attorney Brigitte Collier.
9. During the hearing, the Applicant admitted to having been convicted of two (2) felony convictions for operating a vehicle while intoxicated within a three months period.
10. Applicant further admitted that he has been convicted of three operating a vehicle while intoxicated within five (5) years.

11. The Department entered into evidence State Exhibit 1 as a copy of Applicant's Criminal conviction from the State of Indiana County of Hamilton Superior Court.

12. Exhibit 1 shows the two (2) operating a vehicle while intoxicated charges and felony convictions.

13. Applicant entered into evidence, several Exhibits consisting of character reference letters from employers and colleagues and a copy of his resume which shows that he has been in the insurance business for over fifteen (15) years.

14. The Department then requested that the Court take judicial notice of Indiana Code §27-1-28-18(b)(6) which gives the Commissioner the authority to refuse to issue an independent adjuster license for having been convicted of a felony.

### **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 §§27-1-28-18 (a)-(b) states that the Commissioner may deny an insurance adjuster's license application due to a number of factors.

4. Specifically Indiana Code § 27-1-28-18(b)(6) states that the Commissioner may refuse to issue an independent adjuster's license for having been convicted of a felony.

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 two (2) felony convictions for operating a vehicle while intoxicated warrant license denial under Indiana Code § 27-1-28-18(b)(6).

8. 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 refusal to issue Applicant’s independent adjuster License be affirmed.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 12<sup>th</sup> day of May, 2016.

  
Reuben B. Hill  
Administrative Law Judge

Distribution:

William Bennett  
12584 Cold Stream Rd  
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Brigitte Collier, Attorney  
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311 W. Washington St., Suite 300  
Indianapolis, IN 46204

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MAR 18 2016

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 §27-1-28-18, hereby gives notice to William J. Bennett (“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 26, 2016.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code §27-1-28-17 and Indiana Code §27-1-28-18.
3. Indiana Code §27-1-28-18(b) provides, in part, that the Commissioner may refuse to issue or renew an independent adjusters license for having been convicted of a felony.
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 §27-1-28-18 due to his July 08, 2015 and November 16, 2015 convictions for Operating a Vehicle While Intoxicated, both Level 6 Felonies.

6. Indiana Code §27-1-28-18(c) provides that the applicant or licensee may, not more than thirty (30) days after receiving the Commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal.

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

3-18-16  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

William Bennett  
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