

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5110-BB08-0707-006

IN THE MATTER OF:

Bart Dewald,
Respondent / Bail Agent.

101 South 3rd Street
Goshen, Indiana 46526

Type of Agency Action: Bail Agent Enforcement
Indiana Bail Agent License No.: 4975

FILED

MAR 13 2009

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On February 16, 2009, the appointed Administrative Law Judge, John R. Kissling, Jr., 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 of Recommended Order on Respondent by mailing the same to the office of Respondent's attorney, Mr. Donald E. James.

2. The Department has complied with the notice requirements of Ind. Code § 4-21.5-3-17.

3. Respondent has not filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

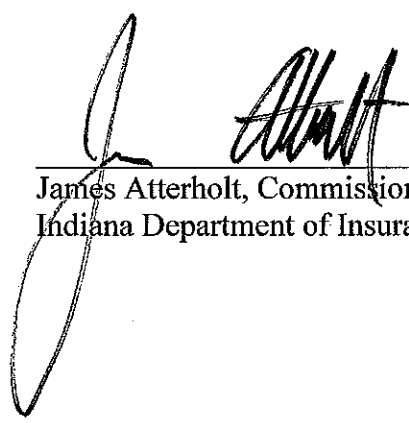
THEREFORE, the Commissioner of Insurance, being fully advised, now hereby issues the following Final Order:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the
Commissioner of Insurance:

1. Respondent's bail agent license is hereby revoked and Respondent is not eligible to reapply for a license until ten (10) years from the date of his February 20, 2008 felony conviction or release from imprisonment, parole, or probation, whichever is later. This order does not mitigate, modify, or effect in any manner the order of permanent revocation signed by the Commissioner on March 5, 2008, currently under appeal.

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 13 day of March,
2009.



James Atterholt, Commissioner
Indiana Department of Insurance

Distribution:

Donald E. James, Esq.
110 W. Berry St., Suite 2000
Fort Wayne, IN 46802

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5110-BB08-0707-006

IN THE MATTER OF:

Bart Dewald,
Respondent.
DOC #174244
Westville Correctional Facility
1100 West & State Road 2
Westville, Indiana 46391

FILED
JUL 09 2008
STATE OF INDIANA
DEPT. OF INSURANCE

Type of Agency Action: Enforcement

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance ("Division"), pursuant to the Indiana Administrative Orders and Procedures Act, Ind. Code §4-21.5-1, and the Bail Agent Licensing Provisions, Ind. Code §27-10-3, files the following charge against Bart Dewald, ("Respondent"), formerly a bail agent licensed in the State of Indiana:

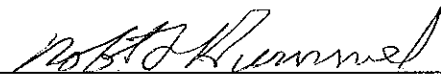
COUNT I

1. Respondent, currently a resident of the Westville Correctional Facility, Westville, Indiana, formerly held Indiana bail agent license number 4975.
2. On March 5, 2008, Respondent's bail agent license was permanently revoked by Final Order of the Commissioner.
3. On April 4, 2008, Respondent appealed the Commissioner's Final Order to the Marion County Circuit Court, Cause Number 49D03-0804-MI-015511.

4. In a separate matter, on February 20, 2008, Respondent was convicted in the Elkhart County Superior Court III of two (2) counts of criminal confinement, both Class D Felonies, and was sentenced to one and a half (1 ½) years imprisonment for those offenses on March 27, 2008, Cause Number 20D03-0612-FD-00043. *See Exhibit "A" attached hereto.*

5. Ind. Code §27-10-3-8(d) requires the Commissioner to revoke the license of any person convicted of a disqualifying offense immediately upon conviction. A person convicted of a felony is not eligible to reapply for a license until ten (10) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later.

WHEREFORE, the Division requests that the Commissioner order the revocation of Respondent's bail agent license for a period of ten (10) years from the date of his felony conviction or release from imprisonment, parole, or probation, whichever is later. The requested order should not mitigate, modify, or effect in any manner the order of permanent revocation signed by the Commissioner on March 5, 2008, and which has been appealed by Respondent in the Marion County Circuit Court, Cause Number 49D03-0804-MI-015511.


Robert Hummel
Attorney No. 20936-49

Indiana Department of Insurance
311 W. Washington Street, Suite 300
Indianapolis, IN 46204

CERTIFICATE OF SERVICE

This is to certify that a copy of the Statement of Charges have been served upon Donald E. James, counsel for Respondent, by depositing a copy of the same in the United States mail, First Class postage prepaid, this 8th day of July, 2008.



Robert Hummel, Attorney
Attorney #20936-49

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

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5114-BB08-0418-003

IN THE MATTER OF:

Bart Dewald,
Respondent.

101 South 3rd Street
Goshen, Indiana 46526

Type of Agency Action: Bail Agent Enforcement)

FILED

JUL 01 2008

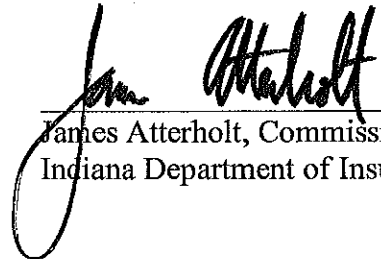
STATE OF INDIANA
DEPT. OF INSURANCE

ORDER
GRANTING RESPONDENT'S MOTION IN OPPOSITION TO ORDER
REVOKING BAIL AGENT LICENSE AND
RESCINDING THE ORDER OF APRIL 25, 2008
REVOKING BAIL AGENT LICENSE

The Commissioner of the Indiana Department of Insurance, James Atterholt, having read and reviewed the Respondent's Motion in Opposition to Order Revoking Bail Agent License and now being duly advised in the premises **GRANTS** said Objection and rescinds the Order dated April 25, 2008 Revoking Bail Agent License under Ind. Code § 27-10-3-8(d) 10 year revocation due to a felony conviction, because Respondent was not given notice and opportunity to be heard on the competency of the evidence of his felony conviction. If the Enforcement Division of the Department of Insurance decides to proceed on this matter it will be necessary to file a statement of charges to present to the Commissioner. The Commissioner will review the statement of charges and decide whether he will proceed under Ind. Code § 27-10-3-9(a). Respondent then may object to the statement of charges pursuant to Ind. Code § 27-10-3-9(b), thereafter a hearing will be held in accordance with Ind. Code § 27-10-3-9(c).

This Order does not mitigate, modify, or effect in any manner the order of permanent revocation signed on March 5, 2008, and which is currently being appealed in the Marion County Circuit Court under Cause Number 49D03-0804-MI-015511.

ALL OF WHICH IS ORDERED by the Commissioner this 1st day of July, 2008.



James Atterholt, Commissioner
Indiana Department of Insurance

Distribution:

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 300
Indianapolis, IN 46204

Donald E. James, Esq.
110 W. Berry St., Suite 2000
Fort Wayne, IN 46802

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5114-BB08-0418-003

IN THE MATTER OF:

Bart Dewald,
Respondent.

101 South 3rd Street
Goshen, Indiana 46526

Type of Agency Action: Bail Agent Enforcement

FILED

APR 25 2008

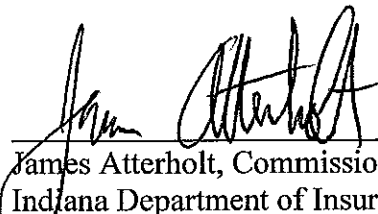
STATE OF INDIANA
DEPT. OF INSURANCE

ORDER REVOKING BAIL AGENT LICENSE

The Commissioner, being advised of the Enforcement Division's motion for the revocation of Respondent's bail agent license and pursuant to Ind. Code §27-10-3-8(d), hereby revokes Respondent's bail agent license for a period of ten (10) years from the date of his felony conviction or release from imprisonment, parole, or probation, whichever is later.

This Order does not mitigate, modify, or effect in any manner the order of permanent revocation signed on March 5, 2008, and which is currently being appealed in the Marion County Circuit Court under Cause Number 49D03-0804-MI-015511.

So ordered this 25 day of April, 2008.



James Atterholt, Commissioner
Indiana Department of Insurance

Distribution:

Donald E. James, Esq.
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Robert L. Hummel, Attorney
Indiana Dept. of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5114-BB08-0418-003

IN THE MATTER OF:

Bart Dewald,
Respondent.

101 South 3rd Street
Goshen, Indiana 46526

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FILED
APR 25 2008
STATE OF INDIANA
DEPT. OF INSURANCE

Type of Agency Action: Bail Agent Enforcement

MOTION FOR REVOCATION OF BAIL AGENT LICENSE

The Enforcement Division of the Department of Insurance ("Division"), by counsel Robert L. Hummel, pursuant to the Indiana Administrative Orders and Procedures Act, Ind. Code §4-21.5-3, *et seq.* and Ind. Code §27-10-3-8(d), requests that the bail agent license of Bart Dewald ("Respondent") be revoked for a period of ten (10) years from the date of his felony conviction or release from imprisonment, parole, or probation, whichever is later.

In support of this request the Division offers the following:

1. Respondent's bail agent license was permanently revoked by order of the Commissioner on March 5, 2008.
2. On April 4, 2008, Respondent appealed the Commissioner's Final Order to the Marion County Circuit Court, Cause Number 49D03-0804-MI-015511.
3. In a separate matter, on February 20, 2008, Respondent was convicted in the Elkhart County Superior Court III of two counts of criminal confinement, both Class D Felonies, and was sentenced to one and a half (1 ½) years for those

offenses on March 27, 2008, Cause Number 20D03-0612-FD-00043. *See Exhibit "A" attached hereto.*

4. Ind. Code §27-10-3-8(d) requires the Commissioner to revoke the license of any person convicted of a disqualifying offense immediately upon conviction and if that person is convicted of a felony, he is not eligible to reapply for a license until ten (10) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later.

Therefore, for all the foregoing reasons, the Division requests that the Commissioner revoke the bail agent license of Respondent Bart Dewald for a period of ten (10) years from the date of his felony conviction or release from imprisonment, parole, or probation, whichever is later. The requested order should not mitigate, modify, or effect in any manner the order of permanent revocation that the Commissioner signed on March 5, 2008, and which is currently being appealed in the Marion County Circuit Court under Cause Number 49D03-0804-MI-015511.

Respectfully submitted,



Robert L. Hummel
Attorney # 20936-49

Distribution:

Donald E. James, Esq.
110 W. Berry St., Suite 2000
Fort Wayne, IN 46802

Robert L. Hummel, Attorney
Indiana Dept. of Insurance
311 W. Washington, St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
COUNTY OF ELKHART) SS:
STATE OF INDIANA)
VS.)
BART A. DEWALD)

IN THE ELKHART SUPERIOR COURT NO. 3

CAUSE NO. 20D03-0612-FD-00043

JUDGMENT OF CONVICTION

FILED

MAR 27 2008

**IN OPEN COURT
CLERK ELKHART SUPERIOR
COURT NO. 3**

The State of Indiana appears by Chief Deputy Prosecuting Attorney Vicki Elaine Becker. The defendant appears in person and by his counsel, Marielena Lindke.

The defendant disputes the accuracy of the 'official version' of the offense as set forth in the Pre-Sentence Investigation Report. The defendant acknowledges the accuracy of the remainder of the Pre-Sentence Investigation Report.

The defendant having been found guilty upon the verdicts of a jury, the court now enters Judgment of Convictions of the offenses of Criminal Confinement in two (2) counts, both of which are Class D felonies, I.C. 35-42-3-3(1).

The court finds that the following aggravating circumstances are present in this case.

1. The defendant committed two separate offenses by reason of the fact that two adult victims suffered traumas as a result of his conduct. In addition, a child was riding in the motor vehicle which the defendant illegally stopped and detained.

2. The defendant was licensed as a bail agent and a recovery agent. As such, the defendant had undertaken certain responsibilities to the community. By breaking the law in the performance of what he perceived to be his duty, he violated those responsibilities.

The court finds that the following mitigating circumstances are present in this case.

1. The defendant's lack of a criminal history is a substantial mitigator and worthy of significant weight.

2. The defendant's substantial employment history is a mitigator.

The court declines to find that the defendant has made significant contributions to the community as urged by defense counsel.

Weighing the aggravators and mitigators, the court finds that the advisory sentence is appropriate with respect to each count.

It is, therefore, ORDERED, ADJUDGED, and DECREED that the defendant, who is a male person, 49 years of age, is guilty of the crimes hereinabove stated, and is sentenced with respect to each count to the Indiana Department of Correction for a period of one and a half years (1 ½) years. The court orders that those sentences be served concurrently. The probation department is directed to calculate the amount of credit time accumulated by the defendant to date, and to advise the court of the results of those calculations via a memorandum. The court will then enter an order awarding the amount of credit time due to the defendant and issue an appropriate Abstract of Judgment. Costs assessed. Bond is ordered released. Appellate rights given.

JUDGMENT.

DATED AT GOSHEN, INDIANA, THE 27TH DAY OF MARCH, 2008.

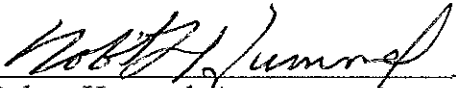
George W. Biddlecome
George W. Biddlecome, Judge
Elkhart Superior Court No. 3

EXHIBIT

A

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon Donald E. James, Esq., counsel for Respondent, by depositing a copy of the same in the United States Mail, First Class postage prepaid, this 24th day of April, 2008.


Robert Hummel, Attorney
Attorney #20936-49

Donald E. James, Esq.
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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5114-BB07-0404-009

IN THE MATTER OF:

Bart Dewald,
Respondent / Bail Agent.

101 South 3rd Street
Goshen, Indiana 46526

Type of Agency Action: Bail Agent Enforcement
Indiana Bail Agent License No.: 4975

FILED

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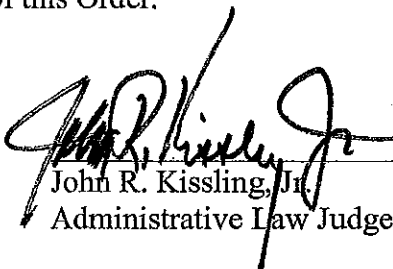
STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties of 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 for your objection with reasonable particularity; and 2) is filed with the Commissioner of the Department of Insurance within eighteen (18) days from the date of this Order.

*wrong cause
should
be 5110-BB08-
0707-006.*


John R. Kissling, Jr.
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 5114-BB07-0404-009

IN THE MATTER OF:

Bart Dewald,
Respondent / Bail Agent.

101 South 3rd Street
Goshen, Indiana 46526

Type of Agency Action: Bail Agent Enforcement
Indiana Bail Agent License No.: 4975

FILED

FEB 16 2009

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

The Administrative Law Judge John R. Kissling, Jr. having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Bart Dewald ("Respondent") This matter came to be heard on November 20, 2008.

The Indiana Department of Insurance ("Department") was represented by counsel, Robert L. Hummel. The Respondent was not present and was not represented by counsel, Donald E. James.

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

FINDINGS OF FACT

1. Respondent was properly notified of the above hearing dates by U.S. Certified Mail #s 7004 1160 0000 3843 0605 sent to his attorney, Donald E. James.

2. Respondent, currently a resident of Westville Correctional Facility, Westville, Indiana, formerly held an Indiana license bail agent license number 4975.

3. On March 5, 2008, Respondent's bail agent license was permanently revoked by Final Order of the Commissioner. (Transcript Pg. 8).

4. On April 4, 2008, Respondent appealed the Commissioner's Final Order to the Marion County Circuit Court, Cause Number 49D03-0804-MI-015511. (Transcript pg. 8).

5. On February 20, 2008, Respondent was convicted in the Elkhart County Superior Court III of Criminal Confinement in two (2) counts, both of which are Class D felonies. Respondent was sentenced to one and a half (1 1/2) years imprisonment on March 27, 2008. (Exhibit A).

6. Indiana Code §27-10-3-8(d) states the Commissioner shall revoke the license of any person who is convicted of a disqualifying offense immediately upon conviction. The pending of sentence or the pending of an appeal of a conviction of a disqualifying offense does not stay the revocation of a license under this subsection. A person convicted of a felony is not eligible to reapply for a license until ten (10) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later. (Exhibit B).

7. Respondent filed with the Court a Written Appearance and Response to Statement of Charges requesting a hearing on the matter. (Transcript pg. 6)

8. On November 19, 2008, the Department received a fax around 4:11 p.m. from Respondent's counsel stating "As you are aware, an evidentiary hearing is presently set in the above referenced matter November 20, 2008, at 10:00 a.m. The basis for filing the above referenced cause resulted from the conviction of Mr. Dewald in State of Indiana v. Bart Dewald, cause number: 20D03-0612-FD-43. As you may be aware, the

conviction has been appealed and my client nor myself will not be present at the hearing. Should you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter, Sincerely Donald E. James.” (Exhibit 1).

9. On November 20, 2008, the Court read and entered into evidence Respondents fax as a continuance and Denied said motion and continued with the scheduled hearing. (Transcript pg. 6).

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. The Department has met its burden by showing by a preponderance of the evidence that Respondent's conviction was contrary to Indiana Code §27-10-3-8(d) and that disciplinary action to include revocation of his license for a period of ten (10) years.

5. Under Indiana bail law, the Commissioner shall suspend or revoke the license of a bail agent, and may impose a fine of up to ten thousand dollars (\$10,000.00) for any cause under Ind. Code §27-10-3-8(a).

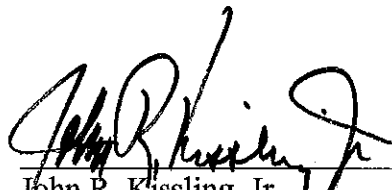
6. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

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. Respondent's bail agent license shall be revoked for a period of ten (10) years. This order should not mitigate, modify, or effect in any manner the order of permanent revocation signed by the Commissioner on March 5, 2008 currently under Appeal.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 16TH day February, 2009.



John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

Donald E. James, Esq.
110 W. Berry St., Suite 2000
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