

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 9039-AD10-0114-001

IN THE MATTER OF:)

Insurance Agent License)
Application of:)

Timothy E. Blakes)
6423 Tranquilo, apt. 3006)
Irving, TX 75039)

FILED

AUG 23 2010

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On June 23, 2010, 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 Applicant by mailing the same to his home address.

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

3. Applicant 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 adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

Therefore, the Commissioner of Insurance now ORDERS that the Preliminary Administrative Order and Notice of License Denial of January 21, 2010 is hereby upheld, denying Applicant's insurance producer application.

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 23 day of August, 2010.



Stephen W. Robertson,
Executive Director and
Acting Commissioner,
Indiana Department of Insurance

Distribution:

Timothy E. Blakes
6423 Tranquilo, Apt. 3006
Irving, TX 75039

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

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JUN 23 2010

STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge John R. Kissling, Jr., came to hear the matter of Applicant Timothy E. Blakes ("Applicant") on April 1, 2010, at 10:29 a.m. and will now render a decision.

The Indiana Department of Insurance ("Department") was represented by counsel, Robert L. Hummel. Applicant participated telephonically and was not represented by counsel.

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

FINDINGS OF FACT

1. Applicant was properly notified of the above hearing date and time by U.S. Certified Mail #7005 3110 0002 4439 3037.

2. On December 29, 2009, Applicant submitted an application for a non-resident life, accident, and health insurance producer license. *Exhibit 1.*

3. In response to a question on the application asking if he has ever been convicted of a crime, Applicant answered "yes." *Exhibit 1.*

4. Applicant submitted information about a misdemeanor conviction for theft in Louisiana in 2004 for which he was fined two hundred dollars (\$200.00) and spent twenty-four (24) hours in jail. *Exhibit C.*

5. Applicant testified that he participated in the theft of DVDs from a Target store in Louisiana where he was employed by giving the merchandise to a fellow employee. *Transcript, pp. 32-33.*

6. Applicant testified that he received no financial gain by participating in the theft and it was the other employee who removed the merchandise from the store. *Transcript, pp. 35-36.*

7. Investigation by the Division found that Applicant pled guilty or *nolo contendere* to a misdemeanor charge of possession of drug paraphernalia in Texas in June 2009. *Exhibit 2.*

8. The Texas conviction was not disclosed as part of Applicant's license application.

9. Applicant testified that he thought the Texas conviction was going to be dismissed from his record. *Transcript, p. 8.*

10. Applicant testified that he became aware that the Texas conviction was not dismissed when he received the January 21, 2010 letter from Department Investigator Mike Herndon. *Transcript, pp. 9-10, Exhibit 3.*

11. On March 31, 2010, the day before the hearing, Applicant submitted a written explanation of the circumstances relating to the Texas conviction. Applicant

explained that his relative used his car and left a small amount of marijuana on the back floor of the car. *Exhibit A*.

12. Applicant testified that the “relative” who was using his car was actually a close friend of his and not related. *Transcript, pp. 45-46*.

13. Applicant testified that he thought the use of the word “disposed” in the Texas case summary meant that the case was dismissed. *Transcript, p. 20, Exhibit B*.

14. Applicant testified that the Texas conviction involved a very small amount of marijuana and no device such as a pipe or other drug-related equipment. *Transcript, p. 43*.

15. Because Applicant did not pay the fees within thirty (30) days as ordered, his Texas case was not dismissed. *Transcript, pp. 52-53*.

16. Applicant testified that when he answered “yes” to the question on the application asking if he has ever been convicted of a crime, he meant the Louisiana conviction, not the Texas conviction. *Transcript, p. 65*.

17. The letter of recommendation from Applicant’s supervisor, Bryon Scott Behymer of Stonebridge Life Insurance Company, was not on company letterhead nor did it contain an address or telephone number for Mr. Behymer. *Exhibit C*.

18. Applicant testified that Mr. Behymer was aware of both the theft conviction in Louisiana and the drug conviction in Texas. *Transcript, p. 40*.

19. Applicant testified that he is licensed as an insurance producer in eighteen (18) states. *Transcript, p. 63*.

20. Applicant failed to submit either his criminal history report or his credit report as requested in Investigator Herndon's letter of January 21, 2010. *Transcript, pp. 69-71, Exhibit 3.*

21. Applicant's testimony indicates that he does not believe it is his responsibility to report the Texas conviction to other states where he is licensed. *Transcript, pp. 72-75.*

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. Applicant failed to disclose a criminal conviction in the state of Texas on his license application.

5. Applicant failed to submit his criminal history report and credit report as requested by the Division.

6. Ind. Code §27-1-15.6-12(b)(1) states that the Commissioner may refuse to issue an insurance producer license if the applicant provides incorrect, misleading, incomplete, or materially untrue information in a license application.

7. Ind. Code §27-1-15.6-12(b)(3) states that the Commissioner may refuse to issue an insurance producer license for attempting to obtain a license through misrepresentation or fraud.

8. Applicant failed to meet his burden to show that the Commissioner's Preliminary Administrative Order and Notice of License Denial should be overturned.

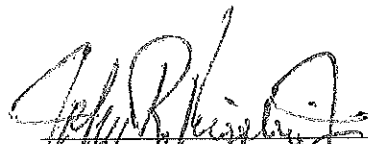
9. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

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. The Preliminary Administrative Order and Notice of License Denial of January 21, 2010 should be upheld, denying Applicant's insurance producer application.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 23RD day of June, 2010.


John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Timothy E. Blakes
6423 Tranquilo, apt. 3006
Irving, TX 75039

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 No.: 9039-AD10-0114-001

IN THE MATTER OF:)
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INSURANCE AGENT LICENSE)
APPLICATION OF:)
)
Timothy E. Blakes)
6423 Tranquilo, Apt. 3006)
Irving, Texas 75039)

FILED

JAN 21 2010

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 **Timothy E. Blakes** (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for licensure with the Commissioner on December 29, 2009. Following a review of materials submitted by Applicant in support of his application, the Commissioner of the Indiana Department of Insurance, (“Commissioner”), being fully advised, now hereby notifies Applicant that the materials submitted indicate that Applicant has not fully met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b), specifically, Applicant failed to disclose a Collins County, Texas, June 2009 Class C Misdemeanor Conviction for Possession of Drug Paraphenalia.

2. Indiana Code § 27-1-15.6-12(d) provides that:
[i]f the commissioner refuses to renew a license or denies an application for a license; the commissioner shall notify the applicant or licensee and advise the applicant or licensee, in a writing sent through regular first class mail, of the reason for the denial of the applicant's application or the non renewal of the licensee's license. 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. The hearing shall be held not more than thirty (30) days after the applicant or licensee makes the written demand, and shall be conducted under IC 4-21.5 and Indiana Code § 27-1-15.6-12(d).

IT IS THEREFORE ORDERED that the Applicant's request for licensure is hereby

DENIED pursuant to Indiana Code 27-1-15.6-12(b).

1/21/10
Date Signed

Carol Cutter
Carol Cutter
Commissioner
Indiana Department of Insurance

**CERTIFIED MAIL: #7005 3110 0002 4440 1039
RETURN RECEIPT REQUESTED**

STATE OF INDIANA)
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COUNTY OF MARION)

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CAUSE NUMBER: 9039-AD10-0114-001

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Insurance Agent License)
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Timothy E. Blakes)
6423 Tranquilo, apt. 3006)
Irving, TX 75039)

FILED

JUN 15 2010

STATE OF INDIANA
DEPT. OF INSURANCE

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

The Enforcement Division of the Department of Insurance ("Division"), by counsel Robert L. Hummel, having participated in a hearing in this matter on April 1, 2010, submits the following proposed findings of fact, conclusions of law, and recommended order pursuant to Ind. Code §4-21.5-3-17.

FINDINGS OF FACT

1. Applicant was properly notified of the above hearing date and time by U.S. Certified Mail #7005 3110 0002 4439 3037.
2. Applicant participated in the hearing via telephone and was not represented by legal counsel.
3. On December 29, 2009, Applicant submitted an application for a non-resident life, accident, and health insurance producer license. *Exhibit 1.*
4. In response to a question on the application asking if he has ever been convicted of a crime, Applicant answered "yes." *Exhibit 1.*

5. Applicant submitted information about a misdemeanor conviction for theft in Louisiana in 2004 for which he was fined two hundred dollars (\$200.00) and spent twenty-four (24) hours in jail. *Exhibit C*.

6. Applicant testified that he participated in the theft of DVDs from a Target store in Louisiana where he was employed by giving the merchandise to a fellow employee. *Transcript, pp. 32-33*.

7. Applicant testified that he received no financial gain by participating in the theft and it was the other employee who removed the merchandise from the store. *Transcript, pp. 35-36*.

8. Investigation by the Division found that Applicant pled guilty or *nolo contendere* to a misdemeanor charge of possession of drug paraphernalia in Texas in June 2009. *Exhibit 2*.

9. The Texas conviction was not disclosed as part of Applicant's license application.

10. Applicant testified that he thought the Texas conviction was going to be dismissed from his record. *Transcript, p. 8*.

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12. On March 31, 2010, the day before the hearing, Applicant submitted a written explanation of the circumstances relating to the Texas conviction. Applicant explained that his relative used his car and left a small amount of marijuana on the back floor of the car. *Exhibit A*.

13. Applicant testified that the “relative” who was using his car was actually a close friend of his and not related. *Transcript, pp. 45-46.*

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21. Applicant failed to submit either his criminal history report or his credit report as requested in Investigator Herndon’s letter of January 21, 2010. *Transcript, pp. 69-71, Exhibit 3.*

22. Applicant's testimony indicates that he does not believe it is his responsibility to report the Texas conviction to other states where he is licensed. *Transcript, pp. 72-75.*

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. Applicant failed to disclose a criminal conviction in the state of Texas on his license application.

5. Applicant failed to submit his criminal history report and credit report as requested by the Division.

6. Ind. Code §27-1-15.6-12(b)(1) states that the Commissioner may refuse to issue an insurance producer license if the applicant provides incorrect, misleading, incomplete, or materially untrue information in a license application.

7. Ind. Code §27-1-15.6-12(b)(3) states that the Commissioner may refuse to issue an insurance producer license for attempting to obtain a license through misrepresentation or fraud.

8. Applicant failed to meet his burden to show that the Commissioner's Preliminary Administrative Order and Notice of License Denial should be overturned.

9. 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. The Preliminary Administrative Order and Notice of License Denial of January 21, 2010 should be upheld, denying Applicant's insurance producer application.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of June, 2010.

John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Timothy E. Blakes
6423 Tranquilo, apt. 3006
Irving, TX 75039

Robert L. Hummel, Attorney
Indiana Department of Insurance
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