

**BEFORE THE INDIANA**  
**COMMISSIONER OF INSURANCE**

**IN THE MATTER OF:**

**FILED**

FEB 27 2012

STATE OF INDIANA  
DEPT. OF INSURANCE

On January 11, 2012, the Administrative Law Judge, 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 her home address.

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

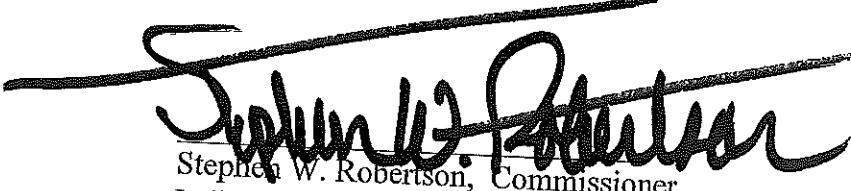
3. Applicant filed an Objection with the Commissioner regarding the Administrative Law Judge's Recommended Order on January 27, 2012, the Department filed a Response to Applicant's Objection to the Recommended Order on January 31, 2012.

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 of September 7, 2011 is upheld.
2. That Applicant shall be permitted to reapply for a bail agent license after twelve (12) months, if payment of all outstanding Indiana Bureau of Motor Vehicle fines and reinstatement of her driver's license has been completed. The application may not be denied for any action addressed in the above captioned matter. However, any new license acquired will be held on a probationary period for two (2) years.
3. 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 27<sup>th</sup> day of February, 2012.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Robert Hummel, Attorney  
Indiana Department of Insurance  
311 W. Washington St., Suite 103  
Indianapolis, IN 46204

Tamara D. Johnson  
4051 Ruckle Street  
Indianapolis, IN 46205

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO. 10603-AD11-0901-032

IN THE MATTER OF:

BAIL AGENT LICENSE  
APPLICATION OF:

Tamara D. Johnson  
4051 Ruckle Street  
Indianapolis, IN 46205

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**FILED**

FEB 22 2012

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

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3. Applicant filed an Objection with the Commissioner regarding the Administrative Law Judge's Recommended Order on January 27, 2012, the Department filed a Response to Applicant's Objection to the Recommended Order on January 31, 2012.

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ALL OF WHICH IS ORDERED by the Commissioner this 22<sup>nd</sup> day of February, 2012.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

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

Tamara D. Johnson  
4051 Ruckle Street  
Indianapolis, IN 46205

**BEFORE THE INDIANA**  
**COMMISSIONER OF INSURANCE**

STATE OF INDIANA  
DEPT. OF INSURANCE

Based upon the evidence presented at the hearing, the Administrative Law Judge now makes the following Findings of Fact, Conclusions of Law, and 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 1705.

2. On August 25, 2011, Applicant submitted an application for a bail agent license. *Exhibit 1.*

3. On the questionnaire portion of the application, Applicant answered "yes" to the question, "Has a disciplinary action been taken against you by any public authority, including law enforcement agency?" Next to her answer, Applicant wrote the words, "speeding ticket." *Exhibit 1.*

4. The Indiana Bureau of Motor Vehicles ("BMV") Official Driving Record shows that Applicant's driver's license was suspended on fourteen (14) occasions between April 2004 and is suspended at the present time for such offenses as failure to comply regarding an out of state violation, unsatisfied judgment, failure to appear, failure to pay, failure to file insurance, and driving while suspended. *Exhibit 2.*

5. According to the Official Driving Record, Applicant owes five hundred and twenty-five dollars (\$525.00) in fees for failing to file insurance in 2009 and 2011. *Exhibit 2.*

6. Regarding her answer to the question on the application concerning disciplinary actions, Applicant testified that it was not her intention to mislead and the she was in a hurry to submit the application. *Transcript p. 13.*

7. Applicant testified that she probably would not have applied for a license if she had known that her driving record would be reviewed because it (the driving record) is pretty bad. *Transcript p. 14.*

8. Applicant's driver's license is currently suspended. *Transcript p. 19, Exhibit 2.*

9. Applicant testified that she must pay close to one thousand dollars (\$1,000.00) to reinstate her license and pay two outstanding traffic tickets. *Transcript pp. 20-21.*

10. Applicant testified that she did not read the part of the application instructing her to give a detailed explanation to any question answered "yes" on an attached sheet. *Transcript p. 23.*

11. In her testimony, Applicant admitted that a disciplinary action by BMV would include a driver's license suspension and that her suspensions should have been disclosed on the license application. *Transcript pp. 24-25.*

12. Applicant testified that when she discussed her license application with Bail Bond Division secretary Linda Reynolds, she did not tell Ms. Reynolds about the suspensions of her driver's license. *Transcript p. 26.*

13. The Preliminary Administrative Order and Notice of License Denial was issued by the Commissioner on September 7, 2011.

14. Applicant did not submit a written explanation of the disciplinary actions taken against her until September 16, 2011. *Exhibit 4.*

15. A criminal history report from the Indiana State Police shows that Applicant does not have a criminal history record. *Exhibit 3.*

16. Applicant testified that some of her traffic tickets were for speeding in a school zone. *Transcript p. 47.*

17. Applicant has an unsatisfied judgment in Boone County, Indiana from a traffic accident in 2006. Applicant was not insured, owes approximately fifteen thousand dollars (\$15,000.00), and none of that amount has been paid. *Transcript p. 41, Exhibit 2.*

18. Applicant had a conviction in Ohio in 2004 for "ACDA" and paid a thirty-five dollar (\$35.00) fine but did not recall what ACDA meant. *Transcript pp. 76-79, Exhibit 8.*

19. Applicant had a default judgment against her in Ohio from a traffic accident in 2006. Applicant was not insured, the judgment was for two thousand eight hundred and eighty-six dollars and eighty-seven cents (\$2,886.87), and the judgment is in collection. *Transcript pp. 80-81, Exhibit 9.*

20. Applicant had a conviction for driving while suspended in Ohio in 2006. *Transcript pp. 83-84, Exhibit 10.*

21. Applicant attended the Ohio State University School of Law and the Indiana University School of Law – Indianapolis from 2004 to 2008 but she does not have a law degree because she still owes Indiana University one thousand two hundred dollars (\$1,200.00) in fees and Indiana University will not send her grades to Ohio State University until the fees are paid. *Transcript p. 62, Exhibits 5 and 6.*

22. Applicant currently works as an administrative assistant for Barbara Roach Bail Bonds in Indianapolis. *Transcript p. 17.*

### **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's response to the application question concerning disciplinary actions taken against her was a material misstatement or misrepresentation under Ind. Code §27-10-3-8(a)(3), a failure to affirmatively show that she is of good moral character as required under Ind. Code §27-10-3-3(a)(1), and is grounds for denial of her application.

5. Applicant's numerous driver's license suspensions and unpaid court judgments show contempt for the law, constitute a failure to affirmatively show that she is of good moral character as required under Ind. Code §27-10-3-3(a)(1), and are grounds for denial of her application.

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

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

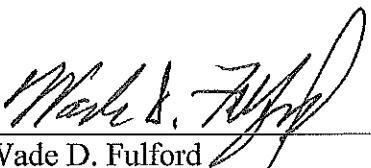
### **RECOMMENDED ORDER**

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 September 7, 2011 should be upheld, denying Applicant's bail agent license application.

2. That Applicant shall be permitted to reapply for a bail agent license after twelve (12) months from the date of the Final Order, if payment of all outstanding Indiana Bureau of Motor Vehicle fines and reinstatement of her driver's license has been completed. This application may not be denied for the material misstatement/misrepresentation portion of the action addressed in the above captioned matter. However, any new license acquired will be held on a probationary period for two (2) years.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 11<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
Wade D. Fulford  
Administrative Law Judge

Distribution:

Tamara D. Johnson  
4051 Ruckle Street  
Indianapolis, IN 46205

Robert L. Hummel, Attorney  
Indiana Department of Insurance  
311 W. Washington St., Suite 103  
Indianapolis, IN 46204

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

Cause No.: 10603-AD11-0901-032

IN THE MATTER OF: )

BAIL AGENT LICENSE )  
APPLICATION OF: )

Tamara D. Johnson )  
4051 Ruckle Street )  
Indianapolis, IN 46205 )

**FILED**

JAN 31 2012

STATE OF INDIANA  
DEPT. OF INSURANCE

**ENFORCEMENT DIVISION'S RESPONSE TO APPLICANT'S**

**OBJECTION TO THE RECOMMENDED ORDER**

The Bail Bond Division of the Indiana Department of Insurance ("Division") hereby files its Response to Applicant's Objection to the Administrative Law Judge's Recommended Order.

**1. Incomplete Findings of Fact**

Applicant attempts to shift the blame for her misrepresentation and misstatement on her bail application to the Bail Bond Division secretary, Linda Reynolds. The pertinent fact, as stated in the Administrative Law Judge's (ALJ's) Recommended Order, is that Applicant did not tell Ms. Reynolds about her driver's license suspensions, all fourteen (14) of them, or that her license is currently suspended. According to Applicant's version of events, Ms. Reynolds noticed that Applicant had answered 'yes' in response to question #2 on the application. When told she must write an explanation, Applicant wrote two words: "speeding ticket," hardly a complete explanation to account for fourteen (14) driver's license suspensions over a seven (7) year period. Apparently Applicant regards a speeding ticket to be worthy of mention as a disciplinary action by

the Bureau of Motor Vehicles (BMV) but not suspensions. Applicant had two opportunities to get the application right. The first was when she read it herself and answered the questions. The second was when Ms. Reynolds told her to write an explanation. Applicant says that she mistakenly failed to include an explanation to her 'yes' answer despite the instructions of the application itself. Then, after Ms. Reynolds told her to write an explanation, she says her failure to add an 's' to the word 'ticket' was unintentional. Keeping in mind that Applicant signed an affirmation as part of the application stating under the penalties of perjury that the forgoing answers and information are true and accurate, her failure to inform the Division of her numerous driver's license suspensions can only be seen as a material misstatement or misrepresentation. Applicant is mistaken if she believes it is Ms. Reynolds's responsibility to question applicants about their past especially when an applicant has offered no clue about the extent of their disciplinary history. The questions on the application are there to obtain relevant information about the applicant and it is the responsibility of the applicant to answer those questions as they have sworn to do; truthfully and accurately. Applicant states that she relied on incorrect information. Ms. Reynolds did not know of Applicant's driver's license suspensions and certainly did not tell Applicant to omit that information from her application.

Applicant states that it was speeding tickets or failure to wear a seatbelt that led to her driver's license suspensions. Exhibit 2, the Indiana Official Driver Record from the BMV, shows that Applicant's suspensions resulted from failure to comply to out of state violations (2 times), no insurance, unsatisfied judgment, failure to file insurance (2 times), repeat insurance violation, failure to appear, failure to appear for driver safety program, failure to pay fines (4 times), and driving while suspended (2 times).

Applicant believes that Item 12 in the Recommended Order's Findings of Fact is incomplete. In her Petition for Review of Denial and Appeal for Consideration of Bail Agent Application, Exhibit 4, Applicant goes into great detail concerning her version of the conversation she had with Ms. Reynolds. The ALJ took that exhibit and Applicant's testimony and reduced it down to one pertinent fact: that Applicant did not tell Ms. Reynolds about her driver's license suspensions.

## **2. Inconsistent Application of Code**

Applicant is correct when she says that Indiana bail law does not specifically mandate that an applicant hold a valid driver's license or have a clean driving record. What Ind. Code 27-10-3-3(a)(1) requires is that an applicant for a bail agent license must affirmatively show that he or she is of good moral character. Applicant is wrong that not having a criminal record amounts to an affirmative showing of good moral character. As the ALJ states in his Recommended Order, Applicant's numerous driver's license suspensions and unpaid court judgments show contempt for the law and amount to a failure to show good moral character.

Applicant states that the law has been applied inconsistently when comparing her case to others and therefore she has been discriminated against in her application for a bail agent license. Without specific examples, Applicant's contention cannot be properly responded to.

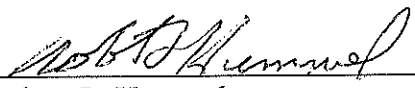
## **3. Ruling Outside the Scope of the Code**

Applicant maintains that the ALJ's recommendation requiring her to obtain a driver's license and pay outstanding fines to BMV are beyond the scope of Indiana bail law. Applicant is correct that there are no provisions under Indiana bail law that require a bail agent to have a driver's license or to pay outstanding fines to another state agency.

Again, the issue is moral character. By having her driver's license suspended fourteen (14) times and by not paying fines to the BMV and, it should be noted, by not paying her outstanding court judgments, Applicant has failed to show that she is of good moral character. The ALJ is giving Applicant an opportunity to right those wrongs by showing that she can obtain a driver's license and pay fines due the BMV before applying again for a bail agent license. In the same vein, the Division believes that Applicant should also be required to pay all outstanding court judgments before being allowed to apply for a bail agent license in the future.

WHEREFORE, the Bail Bond Division of the Department of Insurance respectfully requests that the Commissioner adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order with the added requirement that Applicant must pay all outstanding court judgments prior to applying for a bail agent license again.


Respectfully Submitted,

  
Robert L. Hummel  
Attorney #20936-49

### **CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been served upon Tamara D. Johnson by depositing a copy of same in the United States mail, postage prepaid, this 31st day of January, 2012.

Tamara D. Johnson  
4051 Ruckle Street  
Indianapolis, IN 46205

  
Robert L. Hummel  
Attorney #20936-49

Indiana Department of Insurance  
Bail Bond Division  
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317 232-5249 - telephone  
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