

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 11680-AD12-1029-050

IN THE MATTER OF:)
)
BAIL AGENT LICENSE)
APPLICATION OF:)
)
Edward G. Yost)
4676 N 300 E)
Anderson, IN 46012)

FILED

APR 18 2013

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On March 15, 2013, the appointed Administrative Law Judge, Holly Williams, filed her 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.

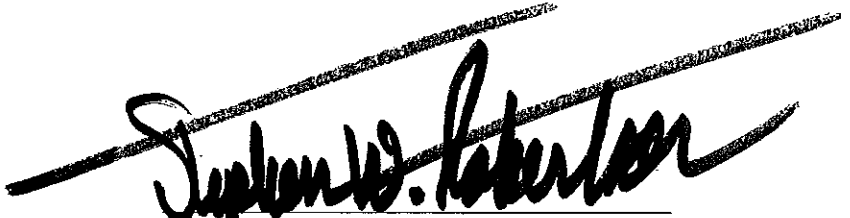
THEREFORE, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial of November 7, 2012 is upheld, denying Applicant's bail agent license 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 18th day of April, 2013.

A handwritten signature in black ink, reading "Stephen W. Robertson", is written over a horizontal line. The signature is cursive and slanted upwards to the right.

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Edward G. Yost
4676 N 300 E
Anderson, IN 46012

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

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Edward G. Yost)
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STATE OF INDIANA
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NOTICE OF FILING OF RECOMMENDED ORDER

The parties to 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 of your objection with reasonable particularity; and (2) is filed with the ultimate authority for the Final Order, Stephen W. Robertson, Commissioner of the Department of Insurance, within twenty (20) days from the date stamped on this Order.



Holly A. Williams
Administrative Law Judge

Distribution:
Robert L. Hummel
INDIANA DEPARTMENT OF INSURANCE
311 W. Washington Street, Suite 200
Indianapolis, IN 46204

Edward G. Yost
4676 N 300 E
Anderson, IN 46012

STATE OF INDIANA)
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**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER**

Administrative Law Judge, Holly Williams, having considered and reviewed all of the evidence, will now render a decision in the matter of the bail agent license application of Edward G. Yost (“Applicant”). This matter came to be heard on December 18, 2012, before Administrative Law Judge Holly Williams at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Indiana Department of Insurance (“Department”) was represented at the hearing by counsel, Robert T. Hummel. Applicant, Edward G. Yost, was present and was not represented by counsel. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

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 #9214 8901 0661 5400 0007 3106 58. *Notice of Hearing.*

2. On September 25, 2012, Applicant submitted an application for a bail agent license. *Exhibit 2.*

3. Following a review of the materials submitted by Applicant in support of his application and further investigation by the Department, the Commissioner of the Indiana Department of Insurance ("Commissioner"), filed a Preliminary Administrative Order and Notice of License Denial on November 7, 2012, pursuant to the Indiana Administrative Act, Indiana Code §4-21.5-1 et seq., Indiana Code § 27-10-3-3, and § 27-10-3-8.

4. On the questionnaire portion of the license application, Applicant answered "no" to question two (2) which read: "Has a disciplinary action been taken against you by any public authority (law enforcement agency, Bureau of Motor Vehicles, etc.)?" *Exhibit 2.*

5. On the questionnaire portion of the license application, Applicant answered "no" to question four (4) which read: "Have you been convicted of a Misdemeanor involving dishonesty, violence, or a deadly weapon?" *Exhibit 2.*

6. Applicant signed the questionnaire affirming under the penalties of perjury that his answers and information are true and accurate. *Exhibit 2.*

7. Applicant's Bureau of Motor Vehicles driver's record shows that his Indiana driver's license was suspended on eighteen (18) occasions between November 1982 and April 2011 for multiple reasons, including failure to meet requirement, failure to appear for driver safety program, chemical test failure, driving while suspended, operating a vehicle while intoxicated, and failure to file insurance. *Exhibit 3.*

8. Ten years ago while working as a roofer, Applicant fell off the roof of Wishard Hospital in Indianapolis, Indiana. After the thirty-eight (38) foot fall, Applicant was in an induced coma for approximately three weeks. Applicant now experiences both long and short term memory loss. *Transcript p. 7, 24, & 49.*

9. Applicant stated that he did not remember all eighteen (18) license suspensions at the time he filled out and signed his license application. During the hearing, Applicant recalled some of the suspensions. *Transcript p. 20-21.*

10. Applicant testified that his answer “no” to question two (2), regarding disciplinary action by public authority or BMV, was not the correct answer. *Transcript p. 28.*

11. Applicant stated that his children are his first priority. When money was tight, Applicant let his SR22 insurance lapse in order to take care of his children. *Transcript p. 38.*

12. Applicant’s Indiana State Police Limited Criminal History shows a conviction for disorderly conduct with an arrest date in April 1983 by the Anderson, Indiana Police Department. *Exhibit 4.*

13. Applicant testified that he did not remember anything about his disorderly conduct conviction in 1983. *Transcript p. 41.*

14. Applicant was convicted of misdemeanor battery in February 1993 in Henry County, Indiana. *Exhibit 5.*

15. Applicant testified that he remembered details about the incident. The battery occurred in March 1992 and was committed against his wife at the time. *Transcript p. 42-45.*

16. Applicant was convicted of operating a vehicle while intoxicated and endangering a person, a Class A misdemeanor, in August 2007 in Muncie, Indiana. *Exhibit 6.*

17. In February 2008, Applicant applied for and received an Indiana resident property and casualty insurance producer license. On the application for that license, he answered “no” to a question asking if he had any felony or misdemeanor convictions. *Exhibit 7.*

18. Department’s counsel asked Applicant why he answered “no” to the question about past criminal convictions on the insurance producer license application when he had two (2) relevant convictions. Applicant responded that he did not know. *Transcript p. 55.*

19. Applicant did not renew his property and casualty license because he found it difficult to find gainful employment. *Transcript p. 29.*

20. Applicant has plans to work for United Surety Agents, Inc.. *Exhibit 2.*

21. Applicant testified that he did tell United Surety Agents, Inc. about a driving under the influence conviction but did not tell anyone at United Surety Agents, Inc. about his driver’s license suspensions because he did not consider those noteworthy. *Transcript p. 64.*

22. On December 5, 2012, the Bail Bond Division received an e-mail from bail agent Les Sebring of United Surety Agents, Inc. stating that Applicant had told the company that he only had a couple of license suspensions. Mr. Sebring wrote that if the company had known about Applicant’s record, they never would have recommended that Applicant apply for a license. *Exhibit 8.*

23. Applicant’s credit report shows that he filed for bankruptcy protection in May 2005. *Exhibit 9.*

24. Applicant testified that he filed for bankruptcy protection because of medical bills and because his first wife ruined him financially. *Transcript p. 67.*

25. Applicant currently works as a farmer. He is a single parent of five children and has never been on welfare. *Transcript p. 38, 50, 61.*

26. Applicant testified that if he received a bail agent license, bail agent Alice Flowers would be his mentor and partner in business. *Transcript p. 70.*

CONCLUSIONS OF LAW

27. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.

28. 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.

29. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.

30. Indiana Code § 27-1-3-3 (a)(1) requires Applicant to affirmatively show he is of good moral character.

31. Applicant has had eighteen (18) driver's license suspensions, a misdemeanor battery conviction, and a misdemeanor operating a vehicle while intoxicated conviction. Applicant did not disclose this information on the bail agent application.

32. Indiana Code § 27-10-3-8-(a)(3) states that the Commissioner may refuse to issue a license due to material misstatement, misrepresentation, or fraud in obtaining the license.

33. Applicant's driver's license suspensions were disciplinary actions taken against him by the Bureau of Motor Vehicles and should have been disclosed on the bail agent license application.

34. Applicant's conviction for battery was a misdemeanor involving violence and should have been disclosed on the bail agent license application.

35. Applicant's failure to disclose his driver's license suspensions and criminal conviction on the bail agent application resulted in material misstatements or misrepresentations on the application in violation of Indiana Code § 27-10-3-8-(a)(3).

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


37. 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:

38. The Preliminary Administrative Order and Notice of License Denial of November 7, 2012, should be upheld, denying Applicant's bail agent license application.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 15th day of March, 2013.


Holly A. Williams
Administrative Law Judge

Distribution:

Edward G. Yost
4676 N 300 E
Anderson, IN 46012

Robert L. Hummel, Attorney
INDIANA DEPARTMENT OF INSURANCE
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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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., Indiana Code §§27-10-3-3, and 27-10-3-8 hereby gives notice to Edward G. Yost (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for bail agent licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on or about September 25, 2012. Following a review of materials submitted by Applicant in support of his application and further investigation by the Department, the Commissioner, being fully advised, now hereby notifies Applicant that he is not qualified for licensure under Indiana Code §§ 27-10-3-3(a)(1) and 27-10-3-8(a)(2 and 3). Specifically, Applicant failed to disclose eighteen (18) driver’s license suspensions, a misdemeanor battery conviction in 1993, and a misdemeanor operating a vehicle while intoxicated conviction in 2007. Having the suspensions and convictions as well as not disclosing them on his application constitute a failure by Applicant to affirmatively show that he is of good moral character as required by Indiana Code §27-10-3-3(a)(1). Not disclosing the driver’s license suspensions or the misdemeanor convictions constitute material misstatements or misrepresentations on the application and are grounds for denial of the application under Indiana Code §27-10-3-8(a)(3). Applicant was a licensed resident insurance producer from February 14,

2008 until February 28, 2010. A review of his producer license application shows that he did not disclose either of his criminal convictions on that application which is a violation of Indiana Code §27-1-15.6-12(b)(1) and grounds for denial of his bail agent application under Indiana Code §27-10-3-8(a)((2).

2. Under Indiana Code §4-21.5-3-7, if you wish to file a petition for review of the Preliminary Administrative Order and Notice of License Denial, you must do so in writing within fifteen (15) days after you receive notice of this Order. Submit your petition to the attention of Investigator Mike Herndon.

IT IS THEREFORE ORDERED that the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §§27-10-3-3 and 27-10-3-8.

SO ORDERED this 7th day of November, 2012.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Edward G. Yost
4676 N 300 E
Anderson, IN 46012

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

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JAN 18 2013

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

The Bail Bond Division of the Department of Insurance (“Division”), by counsel Robert L. Hummel, having participated in a hearing in this matter on December 18, 2012, 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 #9214 8901 0661 5400 0007 3106 58.
2. On September 25, 2012, Applicant submitted an application for a bail agent license. *Exhibit 2.*
3. On the questionnaire portion of the license application, Applicant answered “no” to question two (2) which read: “Has a disciplinary action been taken against you by any public authority (law enforcement agency, Bureau of Motor Vehicles, etc.)?” *Exhibit 2.*

4. On the questionnaire portion of the license application, Applicant answered "no" to question four (4) which read: "Have you been convicted of a Misdemeanor involving dishonesty, violence, or a deadly weapon?" *Exhibit 2.*

5. Applicant signed the questionnaire affirming under the penalties of perjury that his answers and information are true and accurate. *Exhibit 2.*

6. If Applicant becomes licensed, he would work for United Surety Agents, Inc. representing Vernon General Insurance Company. *Exhibit 2.*

7. Applicant's Bureau of Motor Vehicles driver's record shows that his Indiana driver's license was suspended on eighteen (18) occasions between November 1982 and April 2011 for failure to meet requirement, failure to appear for driver safety program, chemical test failure, driving while suspended, operating a vehicle while intoxicated, and failure to file insurance. *Exhibit 3.*

8. Applicant testified that while working as a roofer he fell off the roof at Wishard Hospital in Indianapolis, Indiana a few years ago and he now has both long and short term memory problems. *Transcript p. 7.*

9. Applicant remembered a few of his driver's license suspensions when asked about them at the hearing but not at the time he filled out the license application. *Transcript p. 21.*

10. Applicant testified that his answer "no" to question two (2) on the license application was not the correct answer. *Transcript p. 28.*

11. Applicant testified that he did not know what the word "affirmation" meant when he signed that portion of the application. *Transcript pp. 30-31.*

12. Applicant's Indiana State Police Limited Criminal History shows only a conviction for disorderly conduct with an arrest date in April 1983 by the Anderson, Indiana Police Department. *Exhibit 4.*

13. Applicant testified that he did not remember anything about his disorderly conduct conviction in 1983. *Transcript p. 41.*

14. Applicant was convicted of misdemeanor battery in February 1993 in Henry County, Indiana. *Exhibit 5.*

15. Applicant testified that the battery occurred in March 1992 and was committed against his wife at the time. Applicant remembered the circumstances of the incident in great detail, including remembering the nature of a criminal count against him that was dismissed twenty (20) years ago. *Transcript pp. 43-45.*

16. Applicant was convicted of operating a vehicle while intoxicated and endangering a person, a Class A misdemeanor, in August 2007 in Muncie, Indiana. *Exhibit 6.*

17. In February 2008, Applicant applied for and received an Indiana resident property and casualty insurance producer license. On the application for that license, he answered "no" to a question asking if he had any felony or misdemeanor convictions. *Exhibit 7.*

18. When asked during the hearing why he had answered "no" to the question about past criminal convictions on the insurance producer license application when he had two (2) such convictions prior to the application date, Applicant testified that he did not know. *Transcript p. 55.*

19. Applicant testified that he did tell United Surety Agents, Inc. about a driving under the influence conviction but did not tell anyone at United Surety Agents, Inc. about his driver's license suspensions because he did not think it was noteworthy. *Transcript p. 64.*

20. On December 5, 2012, the Bail Bond Division received an e-mail from bail agent Les Sebring of United Surety Agents, Inc. stating that Applicant had told the company that he had a couple of license suspensions but that was all. Mr. Sebring went on to state that if the company had known about Applicant's record, they never would have recommended that he apply for a license. *Exhibit 8.*

21. Applicant's credit report shows that he filed for bankruptcy protection in May 2005. *Exhibit 9.*

22. Applicant testified that he filed for bankruptcy protection because of medical bills and because his ex-wife ruined him financially. *Transcript p. 67.*

23. Applicant testified that if he received a bail agent license, bail agent Alice Flowers would be his mentor and partner in business. *Transcript p. 70.*

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 driver's license suspensions were disciplinary actions taken against him by the Bureau of Motor Vehicles and should have been disclosed on the bail agent license application.

5. Applicant's conviction for battery was a misdemeanor involving violence and should have been disclosed on the bail agent license application.

6. Applicant having eighteen (18) driver's license suspensions, a misdemeanor battery conviction, and a misdemeanor operating a vehicle while intoxicated conviction and not disclosing that information on his bail agent application constitutes a failure by Applicant to affirmatively show that he is of good moral character as required by Indiana Code §27-1-3-3(a)(1).

7. By not disclosing the driver's license suspensions and criminal convictions on the bail agent application, Applicant made material misstatements or misrepresentations on the application in violation of Indiana Code §27-10-3-8(a)(3).

8. Applicant failed to disclose either of his criminal convictions on his insurance producer license application in 2008, after the dates of those convictions, in violation of Indiana Code §27-1-15.6-12(b)(1) and grounds for denial of his bail agent application under Indiana Code §27-10-3-8(a)(2).

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

10. 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 November 7, 2012 should be upheld, denying Applicant's bail agent license application.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of January, 2013.

Holly Williams
Administrative Law Judge

Distribution:

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