

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER:11718-AD12-1115-057

IN THE MATTER OF:                     )

Insurance Agent License             )  
Application of:                        )

Robert Alex Canales                 )  
5216 E. Walnut Street                )  
Indianapolis, IN 46219                )

**FILED**

MAY 15 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On May 7, 2013, the appointed Administrative Law Judge, Wade D. Fulford, 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 waived the eighteen (18) day period to object to the Administrative Law Judge's Recommended Order to facilitate issuance of the Commissioner's Final Order.

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:

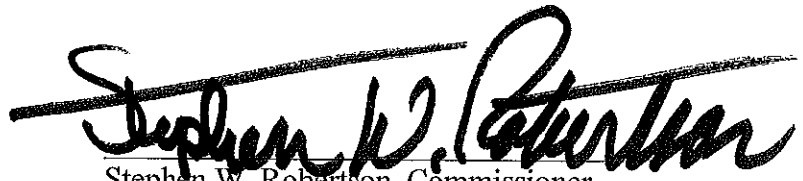
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial of November 21, 2012 is overturned and Applicant is granted an insurance producer license on a probationary basis.

2. Applicant's insurance producer license is subject to probation for a period of one (1) year from the date of this Final Order.

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 15<sup>th</sup> day of May, 2013.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

Robert A. Canales  
5216 E. Walnut Street  
Indianapolis, IN 46219

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  
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CAUSE NUMBER:11718-AD12-1115-057

IN THE MATTER OF: )

Insurance Agent License )  
Application of: )

Robert Alex Canales )  
7156 Twinoaks Dr., #E )  
Indianapolis, IN 46226 )

**FILED**

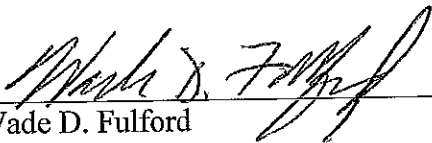
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STATE OF INDIANA  
DEPT. OF INSURANCE

**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 ultimate authority for the Final Order, the Commissioner of the Department of Insurance within eighteen (18) days from the date of this Order.

  
Wade D. Fulford  
Administrative Law Judge

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA

COMMISSIONER OF INSURANCE

CAUSE NUMBER: 11718-AD12-1115-057

IN THE MATTER OF:

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7156 Twinoaks Dr., #E  
Indianapolis, IN 46226

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STATE OF INDIANA  
DEPT. OF INSURANCE

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

Administrative Law Judge Wade D. Fulford ("ALJ Fulford"), having considered and reviewed all of the evidence, will now render a decision in the matter of Applicant Robert Alex Canales ("Applicant") under Cause No. 11718-AD12-1115-057. This matter came to be heard on February 12, 2013 before ALJ Fulford 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 L. Hummel. Applicant, Robert Alex Canales, attended the hearing and was represented *pro se* in this matter. At the hearing, Applicant testified under oath, witnesses were presented, 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. The ALJ's Findings of Fact are incorporated into this Order.
2. Applicant was properly notified of the above referenced hearing date and time by U.S. Certified Mail #9214 8901 0661 5400 0010 1895 24.
3. The Department received Applicant's life and health insurance producer license application on October 5, 2012. *Exhibit 1.*
4. Applicant's license application was denied on November 21, 2012 by order of the Commissioner due to Applicant's misdemeanor conviction for theft in April 2012.
5. On January 22, 2013, Applicant requested an administrative hearing to reconsider the initial denial of his license application. *Exhibit 3.*
6. Applicant testified that he was stopped for public intoxication when he was nineteen (19) or twenty (20) years old in Merrillville, Indiana but was not convicted. *Transcript pp. 28-29.*
7. Applicant submitted a criminal record check from the Lake County (Indiana) Sheriff's Office showing that he was arrested for theft/receiving stolen property on February 14, 2012. *Exhibit A.*
8. Applicant submitted reports from the Indiana State Police and from the Indianapolis-Marion County Records Repository showing no criminal history. *Exhibits B and C.*
9. Applicant submitted a credit report showing a credit score of 552. *Exhibit D.*
10. Applicant submitted a print-out from Trinity Credit Services that he stated shows he is working to improve his credit rating. *Exhibit E, Transcript p. 18.*

11. On or about November 27, 2011, Applicant took cash money from the safe of the business where he was an employee. *Exhibit 4.*
12. Applicant was charged with Theft, a Class D felony but reached an agreement and pled guilty to a Class A misdemeanor and was sentenced to, among other things, six (6) months probation and payment of restitution in the amount of seven hundred dollars (\$700.00). *Exhibits 4 and F.*
13. Applicant paid the restitution in full on April 27, 2012. *Exhibit 5.*
14. Applicant successfully completed probation on November 30, 2012. *Exhibit G.*
15. Applicant testified that when he was arrested for theft, he was working for Tri-Corp Wireless which is part of Sprint. *Transcript p. 33.*
16. Applicant testified that he did not steal the money from the safe at work and that his attorney advised him to plead guilty to the charge of theft since he was the only employee in the store at the time. *Transcript pp. 33-34.*
17. Applicant testified that he did not have the money to go to trial on the theft charge. *Transcript p. 34.*
18. Applicant testified that there was a security camera where he worked but his attorney was unable to obtain the video evidence. *Transcript p. 36.*
19. Applicant testified that he thought there was approximately four thousand dollars (\$4,000.00) in the safe but only seven hundred dollars (\$700.00) was taken. *Transcript p. 40.*
20. Applicant testified that other merchandise, including expensive telephones, was in the safe too but was not taken. *Transcript p. 52.*

21. Applicant testified that he was loaned the seven hundred dollars (\$700.00) to pay the restitution from his father and has paid him back. *Transcript p. 39.*
22. Applicant testified that he had no probation violations during his six (6) month probation period. *Transcript p. 43.*
23. Applicant has a current and valid Indiana driver's license but his license was suspended on two (2) occasions, in February 2009 and July 2009, for failure to appear for a driver safety program and for failure to pay a fine. *Exhibit 6*
24. Applicant testified that he was contacted by American Income Life after submitting his resume online. *Transcript p. 56.*
25. Applicant testified that he has between eighteen and twenty (18 – 20) college credit hours from Purdue University – Calumet. *Transcript p. 53.*
26. At the conclusion of the administrative law proceedings on February 12, 2013, attorney Robert L. Hummel, representing the Enforcement Division of the Department of Insurance, recommended granting the Applicant's producer license subject to a one (1) year probationary period.
27. The administrative law judge (ALJ) gave Applicant two (2) weeks from the date of the hearing to submit corroboration of his version of the criminal matter and/or letters of recommendation from past employers. *Transcript pp. 67.*
28. On February 28, 2013, Applicant submitted by e-mail two (2) positive letters of recommendation, one from Michael Kasky, Applicant's store manager for Tri Corp Wireless, and one from Larry Mitchell, a district manager for Sprint in Castleton and Greenwood, Indiana. Also submitted was a letter from Applicant stating that he contacted the attorney in his criminal case, Mr. Andrew Giorgi, and

was told that the only records available were the court records that Applicant already submitted at the hearing.

29. Conclusions of Law that should be adopted as Findings of Fact are hereby incorporated herein as such.

### **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. Ind. Code §27-1-15.6-12(b)(8) states that the Commissioner may refuse to issue an insurance producer license if the applicant has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
5. Applicant has met his burden of proof to show that the Commissioner's decision to deny the insurance producer license application should be reversed.
6. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.



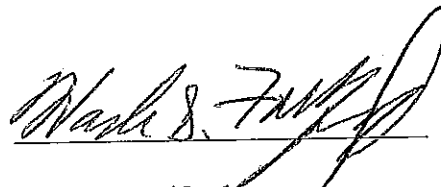
**RECOMMENDED ORDER**

With the Findings of Fact and the Conclusions of Law as stated, the Commissioner of Insurance now ORDERS:

1. The Preliminary Administrative Order and Notice of License Denial of November 21, 2012 is overturned and Applicant is GRANTED an insurance producer license on a probationary basis.

2. Applicant's insurance producer license should be subject to probation for a period of one (1) year.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 7<sup>th</sup> day of May, 2013.

  
Wade D. Fulford  
Administrative Law Judge

Distribution:

Robert Alex Canales  
7156 Twinoaks Dr., #E  
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Robert L. Hummel, Attorney  
Indiana Department of Insurance  
311 West Washington Street, Suite 103  
Indianapolis, Indiana 46204

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**FILED**

MAR 18 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

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

The Enforcement Division of the Department of Insurance, by counsel Robert L. Hummel, having participated in a hearing in this matter on February 12, 2013, 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 referenced hearing date and time by U.S. Certified Mail #9214 8901 0661 5400 0010 1895 24.
2. The Department received Applicant's life and health insurance producer license application on October 5, 2012. *Exhibit 1.*
3. Applicant's license application was denied on November 21, 2012 by order of the Commissioner due to Applicant's misdemeanor conviction for theft in April 2012.
4. On January 22, 2013, Applicant requested an administrative hearing to reconsider the initial denial of his license application. *Exhibit 3.*

5. Applicant testified that he was stopped for public intoxication when he was nineteen (19) or twenty (20) years old in Merrillville, Indiana but was not convicted. *Transcript pp. 28-29.*

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### **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. Ind. Code §27-1-15.6-12(b)(8) states that the Commissioner may refuse to issue an insurance producer license if the applicant has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

5. Applicant has met his burden of proof to show that the Commissioner's decision to deny the insurance producer license application should be reversed.

6. 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 21, 2012 should be overturned and Applicant should be granted an insurance producer license on a probationary basis.

2. Applicant's insurance producer license should be subject to probation for a period of one (1) year.

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

\_\_\_\_\_  
Wade Fulford  
Administrative Law Judge

Distribution:

Robert Alex Canales  
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Indianapolis, IN 46226

Robert L. Hummel, Attorney  
Indiana Department of Insurance  
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