

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

Cause No.: 11973-AD13-0222-007

IN THE MATTER OF:  
  
BAIL AGENT LICENSE  
APPLICATION OF:

John J. Wade  
2440 W. Curry Dr.  
Terre Haute, IN 47802

**FILED**

AUG 09 2013

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On July 9, 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 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 March 1, 2013 is overturned, granting Applicant's bail agent license application.
2. Applicant's bail agent license is granted on a probationary basis for a period of one (1) year from the date of this 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 9<sup>th</sup> day of August, 2013.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

John J. Wade  
2440 W. Curry Drive  
Terre Haute, IN 47802

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. 11973-AD13-0222-007

IN THE MATTER OF:  
  
BAIL AGENT LICENSE  
APPLICATION OF:

John J. Wade  
2440 W. Curry Dr.  
Terre Haute, IN 47802

**FILED**

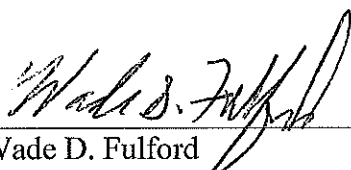
JUL 09 2013

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

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

**IN THE MATTER OF:**

**FILED**

**John J. Wade**  
**2440 W. Curry Dr.**  
**Terre Haute, IN 47802**

STATE OF INDIANA  
DEPT. OF INSURANCE

Administrative Law Judge, Wade D. Fulford, having considered and reviewed all of the evidence, will now render a decision in the matter of the bail agent license application of John J. Wade (“Applicant”). This matter came to be heard on April 9, 2013, before Administrative Law Judge Wade D. 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 T. Hummel. Applicant, John J. Wade, attended the hearing and represented himself, *pro se*, in this matter. At the hearing, 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. On or about February 11, 2013, Applicant John J. Wade ("Applicant") submitted an application for a bail bond license to the Indiana Department of Insurance ("Department"). *Exhibit 1.*
2. On the questionnaire portion of the bail agent applicant, Applicant answered "yes" to the questions, "Has a disciplinary action been taken against you by any public authority, including law enforcement agency?" and "Have you been convicted of a misdemeanor involving dishonesty, violence, or a deadly weapon?" *Exhibit 1.*
3. Applicant indicated on his application that he would be appointed with surety company Vernon General Insurance Company and that his general agent would be bail agent Anthony Hiner in Martinsville, Indiana. *Exhibit 1.*
4. Witness Hiner testified that he met Applicant working for CSX, where they are both Federal FRA conductors. Applicant testified that his work hours vary per week and his bail agent activity is used as supplemental income during slower periods. *Transcript p. 12 and p. 25-26.*
5. In addition to being a Federal Railroad Administration certified conductor, Applicant is a member of the Sugar Creek Township (Vigo County, Indiana) Volunteer Fire Department. *Exhibits A & B; Transcript p. 19-20.*
6. Bail agents with surety company Vernon General Insurance Company are exempt from Indiana state licensing requirements. However, as the current owner of Vernon General Insurance Company, witness Hiner wants all of his bail agents to have a state license. *Transcript p. 14.*

7. Witness Hiner, licensed bail agent, has employed Applicant since August 2012. Mr. Hiner testified that given his prior military and law enforcement background, he strictly enforces a zero tolerance policy regarding use of alcohol. Applicant has complied with that policy. *Transcript p. 11-13.*
8. Applicant testified that he was written seventy-five thousand dollars (\$75,000.00) in bail bonds since August 2012, or thirty (30) to forty (40) bonds so far, and is registered as a bail agent in Morgan, Brown, and Vigo Counties. *Transcript p. 23.*
9. In August 2004, Applicant was charged with Criminal Recklessness (Class D felony) and Pointing a Firearm at Another Person (Class D felony). A plea agreement was reached where the Criminal Recklessness charge was dropped to Disorderly Conduct and the Pointing a Firearm at Another Person charge was dismissed. *Exhibit 4.*
10. Applicant testified that he has a small .25 caliber automatic pistol with him and got into an argument with another man concerning a female. The other man went to the police and told them that Applicant had pulled the gun on him. *Transcript p. 37-38.*
11. Applicant testified that he has a lifetime handgun permit. *Transcript p. 38.*
12. In July 2005, Applicant was sued in Vigo County by Morris Plan of Terre Haute. The record shows that notice of hearing was given to Applicant. He was defaulted in the amount of five thousand seven hundred and forty-eight dollars and fifty-six cents (\$5748.56). *Exhibit 5.*
13. Applicant testified that the suit by Morris Plan was to repossess a 2000 Chevrolet Camaro. He stated that he did not know about it and that the notice was given to his uncle and not to him. Nothing has been paid on the amount due but Applicant acknowledged that he does intend to pay it. *Exhibit 5; Transcript p. 41-43.*

14. Applicant's Indiana State Police Limited Criminal History Report shows an arrest in February 2012 by the Vigo County Sheriff's Department of Operating a Vehicle with and ACE of .08 or More (Class C Misdemeanor – charge dismissed), Operating a Vehicle While Intoxicated Endangering a Person (Class A misdemeanor – guilty), and Reckless Driving (Class B misdemeanor – guilty). The report shows a previous arrest for battery that was dismissed in October 2008. *Exhibit 3.*
15. Applicant testified that he had drinks with friends and went to pick up a friend who had been pulled over by the police. The police asked him to take a breathalyzer and he was arrested for driving while intoxicated. *Transcript p. 49-50.*
16. In May 2012, Applicant was sued in Vigo County by Advanced Recovery Services. The record shows that although Applicant was not served with notice of the suit, he was defaulted in the amount of four thousand seven hundred and fourteen dollars and ninety-six cents (\$4,714.96). Applicant testified that he did not know what the judgment was for. *Exhibit 7; Transcript p. 49-50.*
17. In November 2005, Applicant was arrested in Virginia for Reckless Driving – for traveling 86 MPH in a 65 MPH zone – and for being in possession of a radar detector. Applicant testified that the reckless driving charge was reduced to a speeding ticket. Applicant agreed that this incident should have been disclosed on his bail agent application. *Exhibit 8; Transcript p. 51-53.*
18. Applicant's Bureau of Motor Vehicles Official Driver Record shows that his Indiana driver's license has been suspended on five (5) occasions from June 2007 to March 2012, all for Failure to Appear. *Exhibit 9.*

19. Applicant testified that he had an auto accident in 2011 in Vigo County and was cited for not having auto insurance. He stated that he did have insurance at the time with a company called "The General." *Transcript p. 30-31.*
20. Applicant testified that he did not have auto insurance when his driver's license was suspended in March 2012. *Exhibit 9; Transcript p. 56-57.*
21. At the conclusion of the administrative law proceedings on April 9, 2013, attorney Robert L. Hummel, representing the Enforcement Division of the Department of Insurance, recommended granting the Applicant's bail agent license subject to a one (1) year probationary period.
22. At the conclusion of the hearing, Applicant was ordered to submit two (2) or three (3) letters of recommendation from people who can state that Applicant has been a good worker, shows good moral character, and has shown he is dependable. *Transcript p. 71 & p. 73.*
23. On April 19, 2013, Applicant submitted a letter of recommendation from Douglas Hanna, Assistant Chief of Special Operations, Otter Creek Township Fire Department in Vigo County. Although Applicant is not a volunteer at this Fire Department, Chief Hanna has personally worked with Applicant through other agencies and "can attest to his level of professionalism and competence."



### CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action. Ind. Code §§ 27-1-1-1, -2.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code. Ind. Code §§ 4-21.5-3, *et seq.*
3. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements. Ind. Code § 4-21.5-3-1(b).
4. Pursuant to Indiana Code § 27-10-3-8(a)(3), the Commissioner shall deny any license in which there was a material misstatement, misrepresentation or fraud in obtaining the license.
5. Applicant did not knowingly or intentionally withhold information from the Department but merely misunderstood the scope of the question.
6. Applicant made a reasonable mistake in his completion of the bail bond license application related to question number two (2). To penalize the Applicant for the misunderstanding could not have been the intent of the Legislature when drafting Indiana Code § 27-10-3-8(a)(3).
7. Pursuant to Indiana Code § 27-10-3-3(a)(1) an applicant for a bail bond license must affirmatively show that he is of good moral character. Good moral character implies honesty and trustworthiness. Applicant was forthcoming about his suspensions and convictions when confronted with his bail license denial, which demonstrates that he did not intend to hide his past difficulties from the Department.
8. Despite his past difficulties, Applicant has demonstrated good moral character at the time of his application through improving financial status, repairing credit by working with

Equifax to pay off debts, and volunteering at the Sugar Creek Township Volunteer Fire Department.

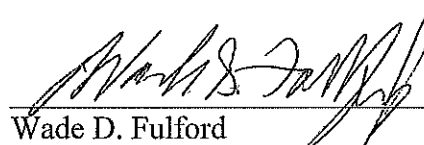
9. Applicant, therefore, met the obligation under Indiana Code § 27-10-3-3(a)(1).
10. Applicant has met the burden of demonstrating that the Commissioner's prior decision to deny the application was in error.
11. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein 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. The Preliminary Administrative Order and Notice of License Denial of March 1, 2013 should be overturned, granting Applicant's bail agent license application.
2. Applicant's bail agent license should be granted on a probationary basis for a period of one (1) year from the date of the Commissioner's Final Order.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 9<sup>th</sup> day of July, 2013.

  
Wade D. Fulford  
Administrative Law Judge

#### Distribution:

John J. Wade  
2440 W. Curry Dr.  
Terre Haute, IN 47802

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