

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER:12189-AD13-0426-014

IN THE MATTER OF:)
)
Insurance Agent License)
Application of:)
)
Kyle J. Ball)
10094 E. Baseline Road)
Avilla, IN 46710)

FILED
SEP 13 2013
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 21, 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.

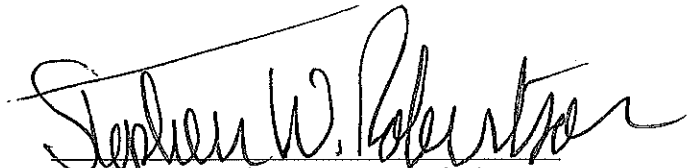
THEREFORE, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial of May 2, 2013 is overturned, granting Applicant's insurance producer license application on a probationary basis.
2. Applicant's probationary period shall be for one (1) year and during that time he shall not violate any insurance laws and he shall not have any child support arrearage.

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 13th day of September, 2013.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Kyle J. Ball
10094 E. Baseline Road
Avilla, IN 46710

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

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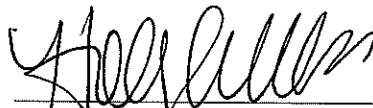
AUG 21 2013

STATE OF INDIANA
DEPT. OF INSURANCE

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 eighteen (18) days from the date stamped on this Order.



Holly Williams
Administrative Law Judge

Distribution:
Robert L. Hummel
Indiana Department of Insurance
Washington Street, Suite 103
Indianapolis, Indiana 46204

Kyle J. Ball
10094 E. Baseline Road
Avilla, Indiana 46710

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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 Applicant Kyle Ball ("Applicant") under Cause No. **12189-AD13-0426-014**. This matter came to be heard on May 23, 2013, 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 Hummel. Applicant attended the hearing and was not represented by counsel. At the hearing, 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 referenced hearing date and time by U.S. Certified Mail #9214 8901 0661 5400 0014 9647 76.
2. The Department received Applicant's online property and casualty insurance producer license application on April 2, 2013. *Exhibit 2.*
3. On April 26, 2013, Investigator Kim Green of the Enforcement Division sent a letter to Applicant informing him that his license application would be denied and requesting that he submit a current and complete criminal history and a full credit history report. *Exhibit 4.*
4. On May 2, 2013, Applicant's license application was denied by order of the Commissioner. The Order stated that the reason for the denial was based upon Applicant's conviction for Dealing in Marijuana, Hash Oil, or Hashish, in 2010. *Exhibit 1.*
5. Applicant received notices at his home address on May 4, 2013, and May 9, 2013, from the U.S. Postal services regarding the Preliminary Administrative Order and Notice of License Denial sent via certified mail. Applicant failed to retrieve these mailings from the post office. *Exhibit 1, Transcript p. 25.*
6. On May 6, 2013, the Enforcement Division received an e-mail from Applicant requesting a hearing to reconsider the Commissioner's preliminary denial of his license application. *Exhibit 3.*
7. On his license application, Applicant answered "yes" to the question concerning any criminal convictions he has had and answered "yes" to the question

asking about whether he has a child support arrearage indicating on the application that he is one (1) month in arrears. *Exhibit 2.*

8. On October 28, November 2, and November 12, 2009, an undercover Fort Wayne police officer purchased more than one hundred (100) grams of marijuana from Applicant. *Exhibit 6; Transcript pgs. 43-45.*

9. Applicant had been selling marijuana for a couple of months prior to the undercover officer purchasing marijuana from Applicant. *Transcript pg. 45.*

10. Applicant had approximately six (6) customers, including the undercover officer, buying marijuana from him. Applicant used marijuana every so often. *Transcript pg. 46-17.*

11. On August 13, 2013, Applicant pled guilty to one count of Dealing in Marijuana, Hash Oil or Hashish, a Class D Felony. Applicant was sentenced to the Indiana Department of Corrections for one and one half (1 ½) years in prison (suspended to probation), obtain a substances abuse evaluation and successfully complete treatment, and complete thirty (30) hours of community service. *Exhibits 7 & 8.*

12. Applicant was discharged from probation on February 27, 2012. *Exhibit 7.*

13. Applicant submitted a letter he had written to Judge Wendy Davis, Allen County (Indiana) Superior Court requesting that modification of his felony conviction to a misdemeanor. *Exhibit A.*

14. Applicant submitted a Response of State to Request for Modification of Class D Felony Conviction to Class A Misdemeanor from Allen County Deputy Prosecuting Attorney, David McClamrock. The Response indicated no opposition to

modification of Applicant's conviction to a Class A misdemeanor on or after February 27, 2014. *Exhibit B.*

15. Applicant's felony for dealing in marijuana is his only criminal conviction. *Transcript pg. 40-41.*

16. Applicant testified that he was ordered to pay thirty-eight or thirty-nine dollars (\$38.00 or \$39.00) per week in child support. Applicant's last payment was on April 2, 2013. According to the Department of Child Services, Applicant has a current child support arrearage of one hundred and twenty-four dollars (\$124.00). *Exhibits 10 and 11, Transcript pp. 35-36.*

17. Applicant's academic transcript from submitted a copy of his academic transcript from Ivy Tech in Fort Wayne showing a grade point average of 3.429 for an Associate of Applied Science degree with a major in Business Administration. *Exhibit D.*

18. Applicant submitted a copy of his personal resume. *Exhibit E.*

19. Applicant submitted a Certificate of Career Readiness for the Indiana College Student from Ivy Tech dated April 2013 and he testified that he has not yet received his Associate Degree certificate in the mail. *Exhibit F, Transcript p. 16.*

20. Applicant testified that he was a student government senator at Ivy Tech in Fort Wayne. *Transcript p. 21.*

21. Applicant testified that if he is granted a property and casualty insurance producer license, he wants to apply for a life and health license. *Transcript p. 29.*

22. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

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

24. 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.

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

26. Ind. Code §27-1-15.6-12(b)(6) states that the Commissioner may refuse to issue an insurance producer license if the applicant has been convicted of a felony.

27. Applicant was only twenty years (20) old when he committed this offense. Applicant successfully completed probation, and there is a strong possibility that his felony conviction will be reduced to a misdemeanor. Additionally, there were no other criminal offenses on Applicant's record before his felony conviction or after.

28. Applicant has been working towards bettering himself, as demonstrated by his completion of the requisite classes for an associate's degree with a high grade point average.

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

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

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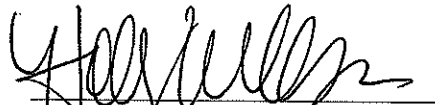
RECOMMENDED ORDER

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:

32. The Preliminary Administrative Order and Notice of License Denial of May 2, 2013, should be overturned, granting Applicant's insurance producer license application on a probationary basis.

33. Applicant's probationary period should be for one (1) year and during that time he should not violate any insurance laws and he should not have any child support arrearage.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 21st day of August, 2013.


Holly Williams
Administrative Law Judge

Distribution:

Kyle J. Ball
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Robert L. Hummel, Attorney
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