

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:12173-AG13-0419-026

IN THE MATTER OF:)

Insurance Agent License)
Application of:)

Jason K. Miller)
7395 N. State Road 267)
Brownsburg, IN 46112)

FILED

OCT 01 2013

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On September 3, 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.

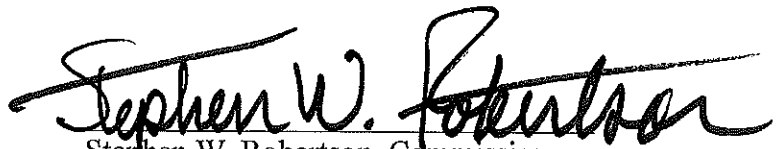
THEREFORE, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial of April 26, 2013 is upheld, denying Applicant's insurance producer 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 1st day of October, 2013.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Jason K. Miller
7395 N. SR 267
Brownsburg, IN 46112

Robert L. Hummel, Attorney
Indiana Department of Insurance
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Indianapolis, IN 46204

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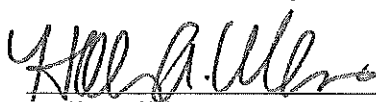
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STATE OF INDIANA
DEPT. OF INSURANCE

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:
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Washington Street, Suite 103
Indianapolis, Indiana 46204

Jason K. Miller
7395 N. State Road 267
Brownsburg, IN 46112

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BEFORE THE 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 Applicant Jason K. Miller ("Applicant") under Cause No. **12173-AG13-0419-026**. This matter came to be heard on June 5, 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. First Class Mail.

2. On April 5, 2013, the Department received Applicant's resident property and casualty insurance producer license application. *Exhibit 1.*

3. On April 6, 2013, Applicant sent an e-mail message to the Department's Licensing Division. The email explained some of the circumstances surrounding his criminal history. *Exhibit 2.*

4. On April 26, 2013, the Department denied Applicant's license application due to Applicant's felony convictions for Strangulation and Criminal Confinement. *Preliminary Administrative Order and Notice of License Denial.*

5. On May 8, 2013, Applicant requested a hearing to reconsider the preliminary denial of his insurance producer license application. *Exhibit 4.*

6. In November 2007, in Tippecanoe County, Applicant was charged with Criminal Confinement while Armed with a Deadly Weapon (Class B felony), Battery Committed by Means of a Deadly Weapon (Class C felony), Intimidation Drawing or Using a Deadly Weapon (Class C felony), and Strangulation (Class D felony). *Exhibit 5.*

7. The court ordered Applicant to have no contact with Emilie Kennedy, Applicant's girlfriend; however, Ms. Kennedy petitioned the court to set aside the no contact order and the court agreed. *Exhibit 5.*

8. In April 2008, Applicant pled guilty to Intimidation While Armed with a Deadly Weapon (Class C felony) and Strangulation (Class D felony). *Exhibit 5.*

9. In May 2008, Applicant was sentenced to the Indiana Department of Corrections for five and one half (5 ½) years in prison. Three and one half (3 ½) years were suspended, including one and one half (1 ½) years on supervised probation, two (2) years on unsupervised probation, and forty-five (45) days of credit with good time. *Exhibit 5.*

10. Regarding the November 2007 incident in Tippecanoe County, Applicant stated that he remembered being at Ms. Kennedy's brother's apartment in Lafayette, Indiana with Ms. Kennedy. He stated that all he remembered is getting into a fight with Ms. Kennedy and passing out in the spare bedroom. He said that when he woke up, the police were knocking on the door. Although he was charged with use of a deadly weapon, Applicant stated that he did not remember the weapon but that according to the report it may have been a kitchen knife. *Transcript pgs. 32-33.*

11. Applicant testified that he did not remember strangling Ms. Kennedy but subsequently saw pictures of the marks on her neck. *Transcript pg. 35.*

12. Applicant did not disclose the Strangulation conviction in his email to the Department because he thought he was convicted of only one charge, Intimidation, relating to the November 2007 incident. *Exhibits 2 & 5; Transcript pgs. 36-39.*

13. In April 2008, in Marion County, Applicant was charged with Strangulation (Class D felony), Criminal Confinement (Class D felony), Domestic Battery (Class A misdemeanor), Battery (Class A misdemeanor), and Interfering with Reporting of a Crime (Class A misdemeanor). *Exhibit 7.*

14. In May 2008, Applicant pled guilty to Strangulation (Class D felony) and Criminal Confinement (Class D felony) and was sentenced to one thousand and ninety-

five (1095) days in prison with five hundred and fifty (550) days executed, five hundred and forty-five days (545) suspended (probation), fifty-two (52) weeks of domestic violence counseling, and mental health evaluation and treatment. *Exhibit 7.*

15. The Probable Cause Affidavit for the April 2008 incident reported that when the Indianapolis Metropolitan police arrived, Applicant smelled of alcohol and he and Ms. Kennedy had been engaging in a verbal argument. The argument turned violent when Applicant grabbed Ms. Kennedy by her hair, poured beer onto her, struck her in her face, strangled her, and threw her into the wall. Applicant prevented Ms. Kennedy from leaving the apartment and she considered jumping out of the second story window to escape. *Exhibit 6.*

16. Applicant acknowledged the part alcohol played in the April 2008 incident. Applicant stated that he was intoxicated, had an argument with Ms. Kennedy, and does not remember anything beyond that point. *Transcript pgs. 43-44.*

17. Applicant told police that he had not put his hands on Ms. Kennedy during the evening of the April 2008 incident and that the blood found on the bed was from sexual activity the previous night. Applicant admitted that those were false statements. *Exhibit 6; Transcript pgs. 47-48.*

18. At the time of the April 2008 incident, Applicant was out on bond and awaiting sentencing for the crimes committed against Ms. Kennedy in Tippecanoe County. As a result, Applicant's bond in Marion County was increased from fifty thousand dollars (\$50,000.00) to one hundred thousand dollars (\$100,000.00). Two (2) days after pleading guilty to the charges in Tippecanoe County, Applicant committed the crimes in Marion County. *Exhibits 5, 6, & 7; Transcript pgs. 50-51.*

19. For the offenses in Tippecanoe County and Marion County, Applicant spent six (6) months in jail in Tippecanoe County and six (6) months in jail in Marion County. *Transcript pg. 52.*

20. Applicant testified that the counseling he received while in jail helped him realize his drinking and anger problems. *Transcript pg. 53.*

21. In January 2010, Applicant was charged with Invasion of Privacy (Class B misdemeanor) in Hendricks County for visiting Ms. Kennedy at her Brownsburg residence. *Exhibit 10; Transcript pgs. 56-57.*

22. The Probable Cause Affidavit stated that Applicant was at Ms. Kennedy's residence, arguing with her. Ms. Kennedy told police that she asked Applicant to leave and he refused. Applicant threw a bottle of medicine at the wall, which broke the bottle and scattered pills on the floor. The bottle had Applicant's name on it. *Exhibit 9.*

23. Applicant testified that he and Ms. Kennedy got into an argument and he took his laundry bag and left. *Transcript pg. 62.*

24. Applicant testified that he did not think the bottle of pills was his and he did not remember being on medication. *Transcript pg. 65.*

25. In March 2010, Applicant visited Ms. Kennedy again near her Brownsburg residence and was observed by police on the railroad tracks next to the house with Ms. Kennedy's two (2) juvenile children. Applicant fled as the police officer approached, but he was subsequently detained. Applicant told the police that he knew he was not supposed to be at Ms. Kennedy's house due to the active protective order prohibiting such contact. *Exhibit 11.*

26. Applicant was again charged with Invasion of Privacy (Class B misdemeanor), but that charge was dismissed pursuant to a plea agreement and Applicant pled guilty to the January 2010 Invasion of Privacy charge. *Exhibits 10 & 12; Transcript pgs. 73-74.*

27. Applicant's probation violations resulted in Applicant spending time in jail for approximately five (5) to six (6) months in Hendricks County and New Castle, Indiana. *Exhibit 7; Transcript pgs. 59-60.*

28. In July 2011, Applicant was charged with Operating a Vehicle while Intoxicated, Endangering a Person (Class A misdemeanor) in Hendricks County. *Exhibit 13.*

29. In October 2011, Applicant pled guilty to Operating while Intoxicated (Class A misdemeanor). The court order suspension of Applicant's driver's license for ninety (90) days, fines, fees, and ordered Applicant to attend the Survivor's Speak Out Program. *Exhibit 13.*

30. Applicant stated that he had been drinking when he and Ms. Kennedy got into a verbal argument. Applicant left for a few hours and when he returned the police arrested him for Operating While Intoxicated. *Exhibit 13; Transcript pgs. 74-76.*

31. Applicant testified that his Operating While Intoxicated charge and speeding in a work zone charge occurred while he was driving a company car owned by his employer, Oak Motors. *Exhibit 16, Transcript pp. 88-89.*

32. If granted an insurance producer license, Applicant anticipates writing auto insurance for Northwest Insurance Network, an insurance broker. *Transcript pgs. 10-11.*

33. Applicant currently works for Northwest Insurance Network as a customer service representative. *Transcript pgs. 13-14.*

34. Applicant testified that he is currently being paid eleven dollars (\$11.00) per hour for his work at Northwest Insurance Network. If Applicant obtains an insurance producer license his hourly rate will increase to seventeen dollars (\$17.00) per hour plus commissions on the insurance policies he sells. *Transcript pg. 15.*

35. Applicant worked for Oak Motors as an assistant sales manager from January 2011 to December 2012, but he could not continue working there because he had too many points on his driver's license and could not be insured. *Exhibit 1; Transcript pg. 16.*

36. Ms. Kennedy was present at the administrative hearing in support of Applicant. *Transcript pg. 9.*

37. Applicant accepted responsibility for much of the negativity in his relationship with Ms. Kennedy. *Transcript pgs. 23-24.*

38. Applicant submitted a letter of recommendation dated December 10, 2012, from his former supervisor at Oak Motors, Nikki Rettberg. *Exhibit 17.*

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

CONCLUSIONS OF LAW

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

41. 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.

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

43. 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.

44. Applicant's record reveals a pattern of alcohol abuse and repeated acts of violence directed towards Ms. Kennedy. Applicant's record also demonstrates a pattern of violating laws and probation orders.

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


46. 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:

47. The Preliminary Administrative Order and Notice of License Denial of April 26, 2013, should be upheld, denying Applicant's insurance producer license application.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and
recommended to the Commissioner this 3rd day of September, 2013.



Holly Williams
Administrative Law Judge

Distribution:

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