

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO. 12478-AD13-0923-028

IN THE MATTER OF: )  
 )  
RECOVERY AGENT LICENSE )  
APPLICATION OF: )  
 )  
Jacob W. Jones )  
655 Indiana Street )  
Atlanta, IN 46031 )

**FILED**  
JAN 28 2014  
STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On December 31, 2013, the Administrative Law Judge, 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 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. The Department timely filed an objection with the Commissioner.

Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full ALJ Beard's Findings of Fact, Conclusions of Law, and Recommended Order. The Commissioner of Insurance, now 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 September 23, 2013 is reversed. Applicant's recovery agent license is probationary for a period of two (2) years.

2. During the probation period, Applicant is to report to the Department any arrests or convictions for any violation of law, except for minor traffic violations, within ten (10) days.

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 28<sup>th</sup> day of January 2014.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Jacob W. Jones  
655 Indiana Street  
Atlanta, IN 46031

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

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JAN 16 2014

STATE OF INDIANA  
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**BAIL BOND DIVISION'S OBJECTIONS**  
**TO THE RECOMMENDED ORDER**

The Bail Bond Division of the Indiana Department of Insurance ("Division") hereby files its Objections to the Administrative Law Judge's ("ALJ") Recommended Order.

The Division objects to two (2) Conclusions in the ALJ's Recommended Order of December 31, 2013.

1. The ALJ concluded that Jacob W. Jones ("Applicant") did not make a material misstatement or misrepresentation on his recovery agent license application when he answered "no" to Question #2 of the application which reads: "(H)as any disciplinary action been taken against you by any public authority including a law enforcement agency?" Evidence admitted during the October 24, 2013 hearing showed that Applicant was convicted of Criminal Mischief, a Class B misdemeanor, in March 2002 and was sentenced to one hundred and eighty (180) days probation. Applicant was convicted of Resisting Law Enforcement, a Class A misdemeanor, in December 2005 and served five (5) days in jail and was sentenced to probation for three hundred and fifty-five (355) days. Applicant violated his probation in May 2007 and was sentenced to

home detention for one hundred and eighty (180) days. Applicant was convicted of Resisting Law Enforcement, a Class A misdemeanor, and Public Intoxication, a Class B misdemeanor, in November 2007 and served eighteen (18) days in jail and was sentenced to probation for three hundred and thirty (330) days. Applicant did not disclose any of his criminal convictions on his license application. As noted in the ALJ's Recommended Order, Applicant's excuse for answering "no" to Question #2 was that he thought the question referred to being reprimanded, fired, or written up during the course of employment. The question contains no reference whatsoever to employment, work, or a job. Applicant testified that he did not work for a public authority and he knew that law enforcement agency meant a "police force." *Transcript p. 71.* The ALJ made no finding that Question #2 was confusing, misleading, or ambiguous and yet the main basis for her decision to grant Applicant a license was because he claimed to misinterpret the meaning of the question.

Obviously, the defendant in criminal proceedings would know his own criminal record better than anyone else. Applicant was aware of his criminal past and made no effort to deny it when questioned in the hearing. *Transcript p. 75.* An ALJ must be aware that if an applicant for a professional license is willing to make a material misrepresentation on the application and sign the document under the penalties of perjury, then Applicant's testimony in the hearing excusing that misrepresentation should be viewed very skeptically.

2. The ALJ found that Applicant did not commit perjury when he answered "no" to application Question #2 because he did not knowingly answer the question with false information nor did he believe his answer to be not true. Applicant knew of his criminal background, knew he did not work for a public authority, and knew what the

term "law enforcement agency" meant. Applicant's excuse that he thought the question referred to discipline in the course of employment is nonsensical. Applicant did in fact commit perjury when he answered "no" instead of "yes" to Question #2.

3. If Applicant's excuse for his misrepresentation on his recovery agent license application is accepted and he is granted a license, it will have a negative impact on similar cases in the future. Application questions will no longer mean what they actually say, but instead mean what the Applicant chooses them to mean. Any excuse for a misstatement or misrepresentation on a license application will be given the status of fact and the burden will be shifted to the Division to uncover the truth about the Applicant. The Department has a duty to protect the insuring public and that includes people seeking the services of bail and recovery agents. Granting a professional license to a person who knowingly makes a misstatement or misrepresentation on the license application jeopardizes the insuring public, diminishes the status of the bail industry, and erodes the Department's regulatory role.

WHEREFORE, the Bail Bond Division respectfully requests that the Commissioner uphold his Preliminary Administrative Order and Notice of License Denial of September 25, 2013 and deny Applicant's recovery agent license application.


Respectfully Submitted,

  
Robert L. Hummel

## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served upon Jacob W. Jones by depositing a copy of same in the United States mail, first class postage prepaid, this 16th day of January, 2014.

Jacob W. Jones  
655 Indiana Street  
Atlanta, IN 46031

  
Robert L. Hummel  
Attorney #20936-49

Indiana Department of Insurance  
311 W. Washington Street, Suite 103  
Indianapolis, IN 46204  
317 232-5063 - telephone  
317 234-2103 - facsimile

STATE OF INDIANA )  
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BEFORE THE INDIANA  
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CAUSE NUMBER: 12478-AD13-0923-028

IN THE MATTER OF: )  
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655 Indiana Street )  
Atlanta, Indiana 46031 )  
 )  
Petitioner. )

**FILED**

DEC 31 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 Recommended 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 Indiana Department of Insurance, within eighteen (18) days from the date stamped on this Recommended Order.



Amy L. Beard  
Administrative Law Judge

Distribution:

Robert L. Hummel, Attorney  
Indiana Department of Insurance  
311 W. Washington Street, Suite 300  
Indianapolis, IN 46204

Jacob W. Jones  
655 Indiana Street  
Atlanta, Indiana 46031

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DEC 31 2013  
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER**

Administrative Law Judge, Amy L. Beard, having considered and reviewed all of the evidence, now renders a decision in the matter of the Recovery Agent License Application of Jacob W. Jones ("Applicant") under Cause Number 12478-AD13-0923-028. This matter came to be heard by Administrative Law Judge Amy L. Beard at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana at 9:00 a.m. on October 24, 2013.

The Indiana Department of Insurance ("Department") was represented at the hearing by counsel, Robert L. Hummel. Applicant appeared in person and without legal 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 pursuant to Indiana Code section 4-21.5-3-27.



## FINDINGS OF FACT

1. On September 5, 2013, Applicant submitted to the Department an application for recovery agent licensure ("Application"). *Exhibit 1.*

2. Applicant answered "no" to question two on the Application, which states, "Has any disciplinary action been taken against you by any public authority including a law enforcement agency?" *Exhibit 1.*

3. Applicant maintains that he did not intentionally misrepresent any information on his Application. *Exhibit A; Tr. 86.*

4. On September 25, 2013, the Commissioner filed a Preliminary Administrative Order and Notice of License Denial. Investigation by the Department revealed that the Applicant had prior misdemeanor criminal convictions. The Commissioner found that Applicant made material misstatements or misrepresentations on his Application in violation of Indiana Code section 27-10-3-8(a)(3), and that Applicant committed perjury, a Class D felony, in violation of Indiana Code section 35-44.1-2(a). *Preliminary Administrative Order and Notice of License Denial; Exhibit 4; Exhibit 8; Exhibit 10.*

5. Pursuant to Ind. Code section 35-44.1-2(a), a person commits perjury if he or she makes "a false, material statement under oath or affirmation, knowing the statement to be false or not believing it to be true; or has knowingly made two (2) or more material statements, in a proceeding before a court or grand jury, which are inconsistent to the degree that one (1) of them is necessarily false."

6. On September 30, 2013, Applicant requested a hearing to determine the reasonableness of the Commissioner's decision. An administrative hearing was held on October 24, 2013.

7. When answering Application question two, Applicant interpreted the question to be asking about employment disciplinary actions. *Tr. 73.*

8. At the hearing, Applicant testified that he “misinterpreted” question two on the Application, and thought the question was asking if he “had been disciplined like reprimanded and fired or written up” during the course of employment. *Tr. 68-70.*

9. Applicant requested a copy of his limited criminal history report from the Indiana State Police. On September 5, 2013, Applicant submitted his limited criminal history report with his Application to the Department. The limited criminal history report showed no criminal convictions, and Applicant did not alter it before submitting it to the Department. The Department discovered the Applicant’s prior criminal convictions through its own investigation. *Tr. 76-78, 85.*

10. Applicant testified that did not intentionally hide his criminal history; he knew the Department would have access to it. Applicant stated that in the Pre-Licensing Education course “it’s drilled into you that you are going to get a State Police report and that they are going to know. I mean, you know, it’s in the manual. It’s all over the place that you are going to do a check and get that information.” *Tr. 69, 75.*

11. On September 10, 2013, Applicant received a copy of his complete criminal history report in the mail, which was sent from the Indiana State Police. Applicant had not requested the additional, complete criminal history report, but knew that the Department conducted its own investigations. Applicant thought that he was receiving the additional document from the Indiana State Police because the Department had requested it. *Tr. 83-84.*

12. Applicant stated, “I answered the questions to the best of my interpretation.” *Tr. 81.*

13. The Department also claimed, for the first time at the administrative hearing, that the Applicant made misstatements or misrepresentations when answering “no” to Application question five (5), “Have you ever been convicted of a misdemeanor involving dishonesty, violence or a deadly weapon?” *Exhibit 1; Tr. 72.*

14. In response, Applicant maintained he did not make a misrepresentation on Application question five (5) because he did not believe that he was convicted of a violent crime. *Tr. 73.*

15. In March 2002, Applicant was convicted of Criminal Mischief, a Class B misdemeanor, and sentenced to one hundred and eighty (180) days probation and community service. *Preliminary Administrative Order and Notice of License Denial; Tr. 98-99.*

16. Applicant was twenty-one (21) years of age at the time of the Criminal Mischief conviction. Passengers in another vehicle threw an object at Applicant’s car. Applicant picked up a stick on the side of the road, and used it to strike the vehicle. *Tr. 94-95.*

17. If the events surrounding the Criminal Mischief conviction occurred now, Applicant “would have never stopped. I would have just went on, and I would have allowed the law enforcement to handle it the correct way.” *Tr. 94-95.*

18. In December 2005, Applicant was convicted of Resisting Law Enforcement, a Class A misdemeanor, and served five (5) days in jail and was sentenced to three hundred and fifty-five (355) days of probation and community service. *Preliminary Administrative Order and Notice of License Denial; Tr. 106-108, 112.*

19. The 2005 conviction resulted from an altercation at Applicant’s parents’ home between his mother and father. Applicant’s father became more vocal towards Applicant’s mother and the father “kind of pushed” the mother out the back door. Applicant became

involved to defend his mother. The neighbors called the police, and despite the mother telling officers that the dispute was between the parents, the officers arrested Applicant. Applicant pleaded guilty to one count of Resisting Law Enforcement in lieu of dropping all other charges. *Tr. 108-111.*

20. In April 2006, an Information Violation of Probation was filed by the Probation Department requesting a warrant to be issued. Applicant violated his probation when was charged in 2005 and pleaded guilty. *Preliminary Administrative Order and Notice of License Denial; Tr. 115, 125, 130; Exhibit 8.*

21. The November 2007, Applicant was convicted for Resisting Law Enforcement, a Class A misdemeanor, and Public Intoxication, a Class B misdemeanor; Applicant served eighteen (18) days in jail and was sentenced to probation for three hundred and thirty (330) days. Applicant was with his brother and Applicant became upset when officers arrested his brother. Applicant resisted officers when they tried to handcuff him. *Preliminary Administrative Order and Notice of License Denial; Tr. 127, 130-132, 136-138.*

22. At the administrative hearing, five (5) witnesses testified in person on behalf of Applicant. Applicant also submitted eight (8) letters from persons attesting to Applicant's good character. The witnesses and authors of the letters included persons who were Town Marshals, teachers, a police officer, a licensed bail agent, and a member of the Army National Guard. *Exhibit B; Tr. 33, 36, 43, 49, 54.*

23. Mr. Jai Cook, a licensed bail agent in Indiana and witness for the Applicant, testified that he would be willing to take Applicant on as a recovery agent. *Tr. 36.*

24. It has been approximately six (6) years since Applicant's last conviction, and Applicant has held a steady job for over two (2) years. Applicant stated, "I would most

definitely say I've turned my life around," and that, "It's been happening for many years, especially following my last incarceration. That was the huge wake up call for me." Applicant testified, "I'm trying to better my life and prove to this state and police officers and my family I'm trying to make something better of myself. And I'm trying to be a person I can be proud of and say that I'm a part of something that they can be proud of." *Tr. 66, 142, 151.*

25. Conclusions of Law that can 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 Indiana's Administrative Orders and Procedures Act ("Act"), codified at Indiana Code section 4-21.5 *et. seq.*, and all procedures and rules set forth by such Act have been followed in this matter.

3. Service of process was completed through use of the United States Postal Service in compliance with the Act and due process requirements.

4. Pursuant to Indiana Code section 27-10-3-8(a)(3), the Commissioner shall deny any recovery agent license if there is a material misstatement, misrepresentation, or fraud in obtaining the license.

5. Applicant has shown that he did not make a material misstatement or misrepresentation on his Application in violation of Indiana Code § 27-10-3-8(a)(3). Applicant maintained that he thought he was answering all Application questions correctly. Applicant misinterpreted question two on the Application and thought that the question was asking about employment disciplinary actions.

6. Pursuant to Indiana Code section 35-44.1-2(a), a person commits perjury if he or she makes "a false, material statement under oath or affirmation, knowing the statement to be false or not believe it to be true; or has knowingly made two (2) or more material statements, in a proceeding before a court or grand jury, which are inconsistent to the degree that one (1) of them is necessarily false."

7. Applicant has demonstrated that he did not commit perjury, a Class D felony, in violation of Indiana Code section 35-44.1-2(a). Applicant did not knowingly answer question

two on his Application with false information, nor did Applicant believe his answer to be not true.

8. Applicant presented eight (8) letters and five (5) in-person witnesses at the administrative hearing attesting to Applicant's good moral character.

9. Applicant's last criminal conviction was six (6) years ago in 2007. All of Applicant's convictions have been misdemeanors, and none have been felonies. Applicant has held a steady job for over two (2) years in order to support his family.

10. Applicant has met his burden of proof in demonstrating, by a preponderance of the evidence, that the Commissioner's Preliminary Administrative Order and Notice of License Denial 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 September 23, 2013, shall be reversed and Applicant shall be granted a probationary recovery agent license.
2. Applicant shall hold a probationary recovery agent license for a period of two (2) years. During this two (2) year probationary period, Applicant must report to the Department any arrests or convictions for any violation of law, except for minor traffic violations, within ten (10) days thereof.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 31<sup>st</sup> day of December, 2013.

  
Amy L. Beard  
Administrative Law Judge

Distribution:

Robert L. Hummel, Attorney  
Indiana Department of Insurance  
311 W. Washington Street, Suite 300  
Indianapolis, IN 46204

Jacob W. Jones  
655 Indiana Street  
Atlanta, Indiana 46031



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**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., and Ind. Code §27-10-3-8, hereby gives notice to Jacob W. Jones (“Applicant”) of the following Administrative Order:

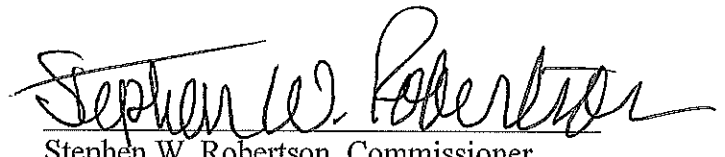
1. Applicant filed an application for recovery agent licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on September 5, 2013. Following a review of materials submitted by Applicant in support of his application and further investigation by the Department’s Bail Bond Division (“Division”), the Commissioner, being fully advised, now hereby notifies Applicant that he is not qualified for licensure under Ind. Code §27-10-3-8(a)(3). Specifically, Applicant’s response to question 2 of the recovery agent application (“Has any disciplinary action been taken against you by any public authority including a law enforcement agency?”) was “no.” The Division’s investigation reveals that Applicant was convicted of Criminal Mischief, a Class B misdemeanor, in March 2002 and was sentenced to one hundred and eighty (180) days probation. Applicant was convicted of Resisting Law Enforcement, a Class A misdemeanor, in December 2005 and served five (5) days in jail and was sentenced to probation for three hundred and fifty-five (355) days. Applicant admitted to a violation of his probation in May 2007 and was sentenced to home detention for one hundred and

eighty (180) days. Applicant was convicted of Resisting Law Enforcement, a Class A misdemeanor, and Public Intoxication, a Class B misdemeanor, in November 2007 and served eighteen (18) days in jail and was sentenced to probation for three hundred and thirty (330) days. Therefore, Applicant made material misstatements or misrepresentations on his recovery agent license application in violation of Ind. Code §27-10-3-8(a)(3). Additionally, Applicant committed perjury under Ind. Code §35-44.1-2(a), a Class D felony, by not providing true and accurate answers on his recovery agent license application.

2. Under Ind. 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 Ind. Code §27-10-3-8.

SO ORDERED this 25<sup>th</sup> day of September, 2013.



Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

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