

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 12848-AD14-0226-005

IN THE MATTER OF:

Olubunmi Zannou,
Applicant

1321 Baker Street
Gary, Indiana 46404

Type of Action: Enforcement

Application No.: 411322

FILED

JAN 16 2015

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On November 17, 2014, the 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 Recommended Order on Applicant by mailing the same to his home address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

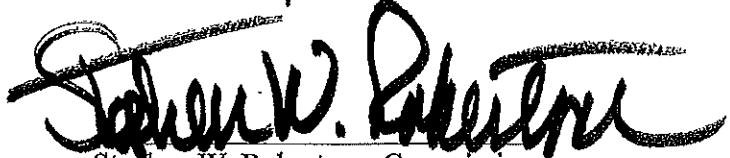
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The April 16, 2014 Preliminary Administrative Order and Notice of License Denial refusing to issue Applicant an insurance producer license be given full effect.

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 16th day of January, 2015.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Olubunmi Zannou
1321 Baker Street
Gary, Indiana 46404

Joshua Harrison
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, IN 46204-2787

STATE OF INDIANA)
)
) SS:)
COUNTY OF MARION) COMMISSIONER OF INSURANCE

CAUSE NUMBER: 12848-AD14-0226-005

IN THE MATTER OF:)

Olubunmi Zannou,)
Applicant)

1321 Baker Street)
Gary, Indiana 46404)

Type of Action: Enforcement)

Application No.: 411322)

FILED

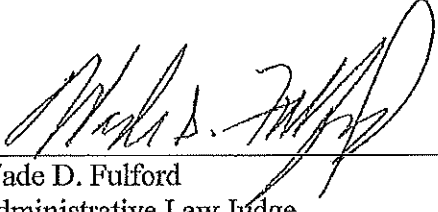
NOV 17 2014

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 Recommended Order is 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: 12848-AD14-0226-005

IN THE MATTER OF:)
)
Olubunmi Zannou,)
Applicant)
)
1321 Baker Street)
Gary, Indiana 46404)
)
Type of Action: Enforcement)
)
Application No.: 411322)

FILED

NOV 17 2014

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 Respondent, Olubunmi Zannou (“Respondent”) under Cause No. 12848-AD14-0226-005. This matter came to be heard on July 7, 2014, before ALJ Fulford at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, 46202.

The Indiana Department of Insurance (“Department”) was represented at the hearing by counsel, Michael F. Mullen. Respondent, Olubunmi Zannou, appeared in person and on his own behalf, *pro se* in this matter. 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 Ind. Code Ind. Code § 4-21.5-3 et. seq. as follows:

FINDINGS OF FACT

1. Applicant, an Indiana resident, filed an application to act as a Resident Producer on February 24, 2014. (Exhibit A at p. 1).
2. On April 16, 2014, the Commissioner of the Indiana Department of Insurance (“Commissioner”) issued a Preliminary Administrative Order and Notice of License Denial in this matter (the “Denial Order”).
3. Also on April 16, 2014, the Denial Order was mailed to Applicant via certified mail number 9214 8901 0661 5400 0031 3594 32. (Denial Order at p. 2).
4. Per the Denial Order, Applicant’s request for licensure was denied because he had not fully met the requirements of licensure as stated in Indiana Code § 27-1-15.6-12(b). (Denial Order at p. 1). Specifically, the Denial Order asserts Applicant was convicted of a Class D felony in December 2010 for operating a vehicle while intoxicated and that Applicant failed to disclose three (3) convictions: one (1) misdemeanor in 2006 and two (2) misdemeanors in 2010. (Denial Order at p. 1).
5. The Denial Order afforded Applicant a sixty-three (63) day period to make a written demand for a hearing to review the Commissioner’s decision.
6. Applicant made a timely demand for such a hearing.
7. On June 30, 2014, a Notice of Hearing was mailed to Applicant via certified mail number 9214 8907 0661 5400 0035 0776 84. (Notice of Hearing).
8. Said hearing was held on July 7, 2014.

Applicant’s Previously-Held Producer License

9. Applicant is a former resident insurance producer, who held license number 488947 from March 2, 2006 until March 31, 2010. (Ex. C at p. 1).

10. Applicant's producer license lapsed on March 31, 2010 because he failed to renew the license. (Ex. C at p. 1).

Applicant's Felony Conviction

11. On his February 24, 2014 application, Applicant disclosed that he has been convicted of a crime. (Ex. A at p. 6).

12. At the July 7, 2014 hearing, Applicant testified that he has one felony conviction. (July 7, 2014 Hearing Transcript at p. 21).

13. Also at the July 7, 2014 hearing, Applicant introduced into evidence a Limited Criminal History Report obtained from the Indiana State Police. (Ex. 1). Applicant testified that the multiple charges shown in the Limited Criminal History Report were justly brought against him due to his bad judgment. (Tr. at p. 20).

14. Shortly after submitting his February 24, 2014 application, Applicant submitted, to the Department, a supplemental document providing an explanation of his criminal background (Ex. B). On said document, Applicant disclosed his Class D felony conviction for Operating a Vehicle While Intoxicated within five (5) years of receiving a previous conviction for Operating While Intoxicated. (Ex. B at pp. 1—2). Said conviction was entered August 31, 2011 under cause number 49F09-1008-FD-059743. (Ex. D at p. 6).

Applicant's Failure to Disclose Criminal Convictions

15. Anna Amick, an investigator for the Department, also testified at the hearing. (Tr. at p. 30). Ms. Amick testified that part of her job is to investigate and review applications that are submitted to obtain a producer license. (Tr. at p. 30). Ms. Amick testified that she is assigned to an application after a trigger question has been marked. (Tr. at p. 30).

16. Ms. Amick testified that a trigger question was marked when Applicant answered "Yes" to having been convicted of a crime, prompting an investigation. (Tr. at p. 33). Ms. Amick further testified that Applicant's application was assigned to her for review. (Tr. at p. 31).
17. Ms. Amick testified that she reviewed Applicant's criminal and financial history after Applicant's application was assigned to her for review. (Tr. at p. 31).
18. Ms. Amick testified that her investigation revealed that, in addition to the above-mentioned Class D felony, Applicant was also convicted of the following:
 - a. Operating a Vehicle While Intoxicated, a Class A misdemeanor, entered under cause number 49F10-0609-CM-170783, on November 20, 2006. (Tr. at p. 50; Ex. D at p. 1).
 - b. Resisting Law Enforcement, a Class A misdemeanor, entered under cause number 49F10-1003-CM-021387, on July 28, 2010. (Tr. at p. 51; Ex. D at p. 3).

Failure to Disclose Criminal Conviction While Licensed

19. Ms. Amick testified that, although the application does not require an applicant to report misdemeanor traffic convictions, an actively licensed producer must disclose all criminal convictions to the Department. (Tr. at p. 34).
20. Ms. Amick testified that part of her investigation included reviewing Applicant's licensure history via the Sircon database. (Tr. at p. 45). Ms. Amick testified that Sircon is a database that records all information provided to the Department by producers. (Tr. at pp. 31—32).
21. Ms. Amick testified that if a licensed producer were to report a criminal conviction to the Department, that conviction would be recorded in the Sircon database. (Tr. at p. 46).
22. Ms. Amick testified that Applicant was a licensed producer when he received the November 20, 2006 criminal conviction. (Tr. at pp. 45—46). Ms. Amick further testified that

Applicant's criminal conviction was not documented in the Sircon database and that nothing during her investigation led her to believe that Applicant disclosed any convictions to the Department between 2006 and 2010. (Tr. at pp. 46—47).

23. Applicant testified that he was not aware of his duty to disclose a criminal conviction while licensed from March 2, 2006 until March 31, 2010. (Tr. at p. 47).

Failure to Disclose Criminal Conviction on 2014 Application

24. Ms. Amick testified that on a license application, an applicant must disclose a misdemeanor, felony, or military offense, but they are excluded from disclosing a misdemeanor traffic citation or misdemeanor convictions and/or pending misdemeanor charges involving driving under the influence or driving while intoxicated. (Tr. at pp. 33—34).

25. Ms. Amick testified that Applicant was not a licensed producer when he received the July 28, 2010 conviction and therefore had no duty to report this conviction to the Department while licensed. (Tr. at p. 51).

26. Ms. Amick further testified that although Applicant did not have a duty to report said conviction while licensed, he was required to report the conviction on his 2014 application, which he failed to do. (Tr. at pp. 51—52).

Applicant's Failure to Disclose Child Support Obligation in Arrearage

27. Ms. Amick testified that Applicant answered "No" on his application when asked if he had a child support obligation in arrearage. (Tr. at p. 35, Ex. A at p. 6).
28. Ms. Amick testified that she contacted Cindy Ingalls, the Program Director for the Indiana Department of Child Services, and Ms. Ingalls reported that Applicant does, in fact, owe child support. (Tr. at p. 53; Ex. E at p. 1).

29. As of February 25, 2014, Applicant had a child support delinquency of \$1,249.00. (Ex. B at p. 1). Ms. Amick testified that as of July 7, 2014, the arrearage amount has been reduced. (Tr. at p. 55).
30. Applicant testified that he believes his arrearage amount is approximately \$920.00. (Tr. at p. 38).
31. Applicant testified that his child support obligations were suspended while he was incarcerated following his 2010 felony conviction, and that he has an agreement with his ex-wife to restart payment once he obtains employment. (Tr. at p. 37, *see also* Tr. at p. 21).
32. Applicant further testified that he continues to make payments towards his child support arrearage. (Tr. at p. 39).

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Indiana Administrative Orders and Procedures Act, codified at Ind. Code § 4-21.5 *et seq.*
3. Applicant received notice of both the Denial Order and Notice of Hearing in compliance with Ind. Code § 4-21.5-3-1.
4. Pursuant to Ind. Code § 27-1-15.6-12(d), an applicant must, within sixty-three (63) days after receiving notice of a Denial Order, file a written petition with the Commissioner to qualify for review.
5. Applicant timely made such a written demand for a hearing.
6. Pursuant to Ind. Code § 4-21.5-3-14(c), the person requesting an agency take action has the burden of persuasion and the burden of going forward with the proof of the request.
7. Pursuant to Ind. Code § 4-21.5-3-14(d), the proceedings before an administrative law judge

are de novo.

8. Thus, Applicant has the burden of proof in demonstrating that Applicant should be granted a producer license.
9. Pursuant to Ind. Code § 27-1-15.6-6, before approving an Indiana resident's application for licensure, the Commissioner must find that the applicant has not committed any act that is a ground for denial, suspension, or revocation under Ind. Code § 27-1-15.6-12 (emphasis added).
10. The grounds for denial, suspension, or revocation are stated in Ind. Code § 27-1-15.6-12(b).
11. Pursuant to Ind. Code § 27-1-15.6-12(b)(6), the Commissioner may refuse to issue or renew an insurance producer license if that person has been convicted of a felony.
12. Applicant was convicted of a Class D felony for Operating a Vehicle While Intoxicated on August 31, 2011 under cause number 49F09-1008-FD-059743.
13. Thus, Applicant has committed an act grounds for action under Ind. Code § 27-1-15.6-12(b)(6) and has failed to satisfy the requirements of licensure as stated in Ind. Code § 27-1-15.6-6(b)(2).
14. Additionally, pursuant to Ind. Code § 27-1-15.6-12(b)(1), the Commissioner may refuse to issue or renew an insurance producer license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
15. Applicant failed to disclose the above-mentioned July 28, 2010 conviction of Resisting Law Enforcement on his 2014 application and, in doing so, provided incomplete or materially untrue information in an application for certification.
16. Thus, Applicant has committed an act grounds for action under Ind. Code § 27-1-15.6-12(b)(1) and has failed to satisfy the requirements of licensure, as stated in Ind. Code § 27-1-

15.6-6(b)(2).

17. Pursuant to Ind. Code § 27-1-15.6-12(b)(2)(A), the Commissioner may refuse to issue or renew an insurance producer license for having violated an insurance law.

18. Ind. Code § 27-1-15.6-17(b) is such an insurance law.

19. Ind. Code § 27-1-15.6-17(b) requires a producer to report to the Commissioner, within thirty (30) days after an initial pretrial hearing date, any criminal prosecution of the producer initiated in any jurisdiction.

20. While Applicant was licensed insurance producer, he failed to disclose his criminal proceedings and conviction for the above-mentioned November 20, 2006 conviction for Operating a Vehicle While Intoxicated and, in doing so, violated Ind. Code § 27-1-15.6-17(b).

21. Thus, Applicant has committed an act grounds for action under Ind. Code § 27-1-15.6-12(b)(2)(A) and has failed to satisfy the requirements of licensure, as stated in Ind. Code § 27-1-15.6-6(b)(2).

22. Finally, pursuant to Ind. Code § 27-1-15.6-12(b)(3), the Commissioner may refuse to issue or renew an insurance producer license for having obtained or attempted to obtain a license through misrepresentation or fraud.

23. Applicant failed to disclose the above-mentioned July 28, 2010 conviction of Resisting Law Enforcement and failed to accurately inform the Department of his child support obligation in arrearage, on his 2014 application.

24. Failing to disclose material information on a license application constitutes an attempt to obtain a license through misrepresentation or fraud.

25. Thus, Applicant has committed an act grounds for action under Ind. Code § 27-1-15.6-

12(b)(3) and has failed to satisfy the requirements of licensure, as stated in Ind. Code § 27-1-15.6-6(b)(2).

26. Based on the evidence heard at the July 7, 2014 hearing, Applicant has not satisfied his burden.

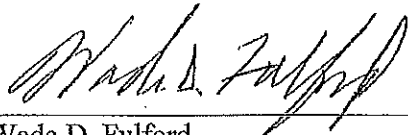
27. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, Administrative Law Judge Wade Fulford now recommends to the Commissioner the following:

1. The April 16, 2014 Preliminary Administrative Order and Notice of License Denial refusing to issue Applicant an insurance producer license be given full effect.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 17th day of November, 2014.



Wade D. Fulford,
Administrative Law Judge

Distribution:

Olubunmi Zannou
1321 Baker Street
Gary, Indiana 46404

Michael F. Mullen, Esq.
INDIANA DEPARTMENT OF INSURANCE
311 West Washington Street, Suite 103
Indianapolis, Indiana 46240