

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13365-AD14-1010-027

IN THE MATTER OF:)
)
Insurance Producer License)
Application of:)
)
Willis Jones)
4415 Winthrop Ave.)
Indianapolis, Indiana 46205)
)
Applicant)

FILED

SEP 11 2015

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On July 31, 2015, 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 Findings of Fact, Conclusions of Law and 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 December 12, 2014, is AFFIRMED.

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 11th day of September, 2015.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Willis Jones
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Indianapolis, IN 46205

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)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:13365-AG14-0110-027

IN THE MATTER OF:)

WILLIS JONES)

Applicant)

4415 Winthrop Ave)
Indianapolis, IN 47370)

Type of Agency Action: Enforcement)

FILED

FEB 17 2015

STATE OF INDIANA
DEPT. OF INSURANCE

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

At the conclusion of the hearing in this matter, the parties were asked to submit Proposed Findings of Fact, Conclusions of Law, and Recommended Order within Thirty (30) days of the hearing date of January 29, 2015. The Enforcement Division hereby timely submits its Proposed Findings of Fact, Conclusions of Law, and Recommended Order.

Administrative Law Judge Wade Fulford, having considered and reviewed all of the evidence, will now render a decision in the matter of Applicant Willis Jones ("Applicant"). This matter came to be heard by Wade Fulford, at 9:41 a.m. at the Indiana Department of Insurance.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Joshua Harrison. Applicant appeared in person and without legal counsel. Evidence was heard and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact, Conclusions of Law, and issues the Recommended Order.

FINDINGS OF FACT

1. Applicant submitted an application for an Indiana Producer's License on August 20, 2014.
2. On December 12, 2014, the Department filed its "Preliminary Administrative Order and Notice of License Denial" ("the Order").
3. The Order noted that on the application, the Applicant disclosed that he had been convicted of six (6) felonies.
4. Citing Indiana Code § 27-1-15.6-12(b)(6), the application was denied due to having said convictions.
5. The Order further notified the Applicant that should he wish for a review of this decision, he must notify the Department within sixty-three (63) days.
6. The Applicant notified the Department that he wished to have a hearing on the matter.
7. A hearing was conducted on January 29, 2015 with the Applicant present in person without counsel and the Department represented by attorney Josh Harrison.
8. During the hearing, the Applicant admitted to disclosing the prior convictions on his application.
9. The Applicant offered five (5) letters into evidence. These five letters were entered into evidence as Applicant's exhibits "A" through "E".

10. Applicant's exhibits "A" through "E" were letters of recommendation from various individuals that know the Applicant. Those individuals include the pastor of Applicant's church, his supervisor at Dial America, Applicant's mental health physician, the president of Applicant's choir, as well as a close personal friend of the Applicant.

11. Applicant further testified that he has been a contributing member of Dial America for fourteen (14) months. In this time, it has been noted by his employer that he is an exemplary employee.

12. The Department entered into evidence as exhibit 1 a copy of the Producer Application that was submitted by the Applicant on August 20, 2014.

13. On page four (4) of the application, Applicant admitted that he had been convicted of a felony.

14. The Department then entered into evidence as exhibit 2 a letter from the Applicant listing the various felony convictions in reference to the question on the application.

15. Exhibit 2 listed the four (4) felonies as stated by the Applicant as:

- a. A January 31, 2004 conviction for Retail Fraud and Theft;
- b. An October 11, 1993 conviction for two (2) counts of Sexual Battery with a Minor;
- c. An October 20, 2004 conviction for failure to comply with sex offender probation;
- d. A January 12, 2002 conviction for possession of cocaine;

16. The Department then entered into evidence as exhibit 3 a facsimile from the Applicant of his criminal history from the state of Florida confirming the convictions that the Applicant listed in Department's exhibit 2.

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 the Administrative Orders and Procedures Act of the Indiana Code.

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

4. Indiana Code § 27-1-15.6-12(b) states that the Commissioner may deny a license application due to a number of factors.

5. Specifically Indiana Code § 27-1-15.6-12(b)(6) lists having been convicted of a felony as one of the factors that the Commissioner may use in denying an application for producer's license.

6. Indiana Code § 4-21.5-5-14(a) places the burden of demonstrating the invalidity of the agency action upon the party requesting the judicial review.

7. Indiana Code § 4-21.5-5-14(d)(1) requires that the party seeking judicial review must show the agency action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

8. 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:

1. That the denial of Applicant's Indiana Producer License application be affirmed.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2015.

Wade Fulford
Administrative Law Judge

Distribution:

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Indianapolis, IN 47370

Joshua Harrison, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER: 13365-AD14-1010-027

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Indianapolis, IN 46205,)
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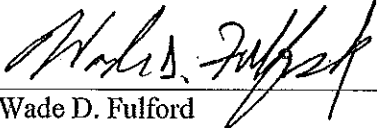
JUL 31 2015

**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 fifteen (15) days from the date stamped on this Notice of Filing of Recommended Order.



Wade D. Fulford
Administrative Law Judge

Distribution:

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JOSHUA HARRISON
Attorney, Enforcement Division
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

Administrative Law Judge, Wade D. Fulford, (“ALJ”), having considered and reviewed all of the evidence, now renders a decision in the matter of the Insurance Producer License Application of Willis Jones under Cause Number 13365-AG14-0110-027. This matter came to be heard by the ALJ at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, on January 29, 2015.

The Indiana Department of Insurance (“Department”) was represented at the administrative hearing by legal counsel, Josh Harrison. The Applicant, Willis Jones, (“Applicant”) appeared without legal counsel. At the administrative hearing, witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at the hearing, the ALJ 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 August 20, 2014, the Applicant submitted an application for a nonresident life and health insurance producer license ("Application") to the Department. *Exhibit 1 ("Ex. 1")*; *Transcript of Hearing ("Tr.")* p. 7, 13.
2. On his Application, the Applicant disclosed that he had been convicted of four (4) felonies. *Ex. 1*; *Tr. p. 9, 28, 32-33*.
3. On December 12, 2014, the Department issued a Preliminary Administrative Order and Notice of License Denial ("Preliminary License Denial Order") citing Indiana Code § 27-1-15.6-12(b) and the Applicant having felony convictions. *Preliminary License Denial Order*.
4. On January 5, 2015, the Applicant timely requested a hearing to determine the reasonableness of his Application denial.
5. On January 29, 2015, a hearing was conducted. The Applicant appeared in person without counsel. The Department was represented by attorney Josh Harrison.
6. At the hearing, Melissa Higgins testified in person as a witness for the Department. Ms. Higgins is an investigator for the Department and her job duties include looking over insurance producer applications. She reviewed the Applicant's Application. *Tr. p. 30-37*.
7. Along with his Application, the Applicant submitted a letter explaining his four (4) felony convictions. *Exhibit 2 ("Ex. 2")*. The Department requested that the Applicant send a copy of his criminal history. *Exhibit 3 ("Ex. 3")*. All four (4) felony convictions occurred in the State of Florida. The felonies, dates committed, and summaries of the surrounding events are as follows:
 - a. January 31, 2004—Fraud Rental and Theft of Rental Property: The Applicant rented a DVD player from Rent a Center. His employer at that

time called him and asked him to immediately leave to go do a workshop. The Applicant's landlord agreed to help him and return the rented DVD player for him. The landlord did not return the DVD player and Rent of Center went to the home to claim it. The Applicant was criminally prosecuted and ordered to pay restitution. *Ex. 2; Ex. 3; Tr. 26-27.*

- b. January 12, 2002—Cocaine Possession: The Applicant was sentenced to one (1) year and one (1) day time served. *Ex. 2; Ex. 3; Tr. 26-28.*
- c. October 11, 1993—Sexual Battery on a Minor Under 18 Years of Age: The Applicant was sentenced to five (5) years probation. *Ex. 2; Ex. 3; Tr. 26-28, 32-37.*
- d. October 31, 2004—Offender Failure to Comply with PSIA: The Applicant's letter explained that this conviction was for failing to give his "new address while [he] was on probation in a timely manner." The Applicant's criminal history lists an offense dated October 12, 2004 the description of the offense as "sx offndr fail comply PSIA." *Ex. 2; Ex. 3; Tr. 26-28, 32-37.*

8. At the hearing, the Applicant presented five (5) letters, which were written by the Applicant's pastor (Exhibit A "*Ex. A*"); his manager at DialAmerica (Exhibit B "*Ex. B*"); his mental health physician (Exhibit C "*Ex. C*"); the president of his church choir (Exhibit D "*Ex. D*"); and a close friend (Exhibit E "*Ex. E*"). The Applicant stated that every person who wrote a letter knew about his background. *Tr. p. 15-25.*

9. The Applicant is the director of music and a worship leader at Indiana Missionary Baptist Church. The pastor of the church, Pastor Jordan, wrote in this letter that he has known the

Applicant for about thirteen (13) years. Pastor Jordan's letter was to attest to the Applicant's character noting the Applicant's high degree of integrity, responsibility, good judgment, and trustworthiness. *Ex. A; Tr. p. 9, 19-20.*

10. The Applicant is employed and works for DialAmerica, a telecenter. As the number one representative at the telecenter, DialAmerica approached the Applicant about wanting him to get his insurance producer license. The second letter was written by the Applicant's manager at DialAmerica, Andrew Sauter. Mr. Sauter stated that he had known the Applicant since September 9, 2013. While working under Mr. Sauter's management, the Applicant "has received numerous accolades from coworkers, clients, and customers for exemplary performance in integrity, compassion and customer service." *Ex. B; Tr. p. 9, 12, 16, 19-20.*

11. The Applicant sought treatment from Jay D. Summers, Ph.D., at the VA Medical Center in Indianapolis for concerns about depression. Dr. Summers stated in his letter that the Applicant is "engaged in treatment and willing to examine his contribution and responsibility in his past actions. Similarly, he is motivated and determined to successfully meet his moral standards in his work and personal life." *Ex. C; Tr. p. 19-22.*

12. Catina Jordan is the president of the Applicant's church choir and his friend. Ms. Jordan's letter states that she has known the Applicant for three (3) years. She knows about the Applicant's criminal background. In her letter, she writes that the Applicant is "caring, encouraging, uplifting, loving, hardworking, and very understanding." *Ex. D; Tr. p. 16, 22.*

13. Yolanda Ward-Lee wrote a letter on behalf of the Applicant as a close friend of over ten (10) years. Ms. Ward-Lee is a former employee of One American who now owns her own independent tax service. During tax season, the Applicant watches Ms. Ward-Lee's kids,

one of whom has cerebral palsy, and takes them to their activities and spends time with the children. She also states that the Applicant helps the community and volunteered to help collect clothes and deliver them to shelters. *Tr. 23; Ex. E.*

14. 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. *See I.C. §§ 27-1-15.6 et seq.*

2. This hearing was held in compliance with Indiana's Administrative Orders and Procedures Act ("Act"). I.C. § 4-21.5-3.

3. The Applicant received notice of the Preliminary Administrative Order and Notice of License Denial, in compliance with I.C. § 4-21.5-3-1.

4. Pursuant to I.C. § 27-1-15.6-12(b)(6), the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.

5. The Applicant has been convicted of the following felonies: Fraud Rental and Theft of Rental Property in 2004; Cocaine Possession in 2002; Sexual Battery on a Minor Under 18 Years of Age in 1993; and Offender Failure to Comply with PSIA in 2004.

6. While the Applicant's testimony and the letters written on his behalf show that he continues to distance himself from his criminal past, is involved with his church and community, and has maintained employment, this does not outweigh that the Applicant has been convicted of four (4) felonies and consideration of their nature and severity.

7. Based on the evidence heard at the January 29, 2015, hearing, the Applicant has not satisfied his burden.

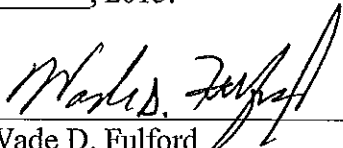
8. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

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 December 12, 2014, refusing to issue the Applicant an insurance producer license shall be upheld.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 31st day of July, 2015.



Wade D. Fulford
Administrative Law Judge

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