

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13577-AD15-0324-011

IN THE MATTER OF:)
)
Insurance Producer License)
Application of:)
)
Jacquessaint Menelas)
3370 NW 21st Ct.)
Coconut Creek, FL 33066)
)
Applicant)

FILED

DEC 04 2015

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On October 21, 2015, the Administrative Law Judge, Amy L. Beard, 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 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:

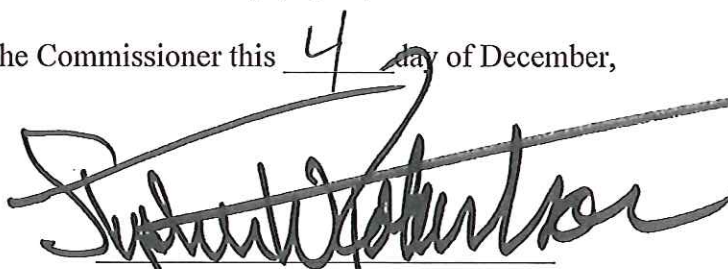
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial is AFFIRMED.

2. Applicant is DENIED a non-resident insurance producer license.

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 4 day of December, 2015.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Jacquessaint Menelas
3370 NW 21st Ct.
Coconut Creek, FL 33066

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

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JACQUESSAINT MENELAS)
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Coconut Creek, FL 33066)
)
Petitioner.)

FILED
OCT 21 2015
STATE OF INDIANA
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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 Notice of Filing of Recommended Order.



Amy L. Beard
Administrative Law Judge

Distribution:

JACQUESSAINT MENELAS
3370 NW 21st Ct
Coconut Creek, FL 33066

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

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STATE OF INDIANA
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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

Administrative Law Judge, Amy L. Beard, ("ALJ"), having considered and reviewed all of the evidence, now renders a decision in the matter of the Insurance Producer License Application of Jacquessaint Menelas under Cause Number 13577-AD15-0324-011. This matter came to be heard telephonically by the ALJ at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana, on April 29, 2015.

The Petitioner, Jacquessaint Menelas, ("Petitioner") appeared telephonically and without legal counsel. The Respondent, the Indiana Department of Insurance ("Department"), was represented at the administrative hearing by legal counsel, Brigitte Collier. 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 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. The Petitioner submitted an application for a nonresident insurance producer license ("Application") to the Department on December 30, 2014. *Transcript of Hearing ("Tr.") at p. 7; Exhibit 1 ("Ex. 1")*.

2. On his Application, the Petitioner answered, "No" to the question, "Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?" *Ex. 1; Tr. at p. 17-18*.

3. On April 2, 2015, the Commissioner issued a Preliminary Administrative Order and Notice of License Denial ("Denial Order") denying the Petitioner's Application for not having fully met the requirements of licensure under Indiana Code § 27-1-15.6-12 "due to his failure to disclosure 4 administrative actions and a mortgage broker's license revocation on his application for licensure." *Denial Order*.¹

4. The Petitioner requested a hearing to determine the reasonableness of the Commissioner's decision to deny the Petitioner's Application. *Notice of Hearing*.

5. An administrative hearing was held telephonically on April 29, 2015, at 1:00 p.m.

Petitioner's Failure to Disclose Administrative Actions

6. Calla Dain, investigator for the Department, testified at the hearing. Ms. Dain stated that she reviewed the Petitioner's Application to determine, among other things, whether the Petitioner submitted accurate information. *Tr. at p. 14-15*.

7. Ms. Dain's investigation revealed that the Petitioner had administrative actions

¹ Paragraph two (2) of the Denial Order states, "Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-6 and Indiana Code § 27-1-15.6-12." In this matter, however, the Petitioner is required to meet the requirements for nonresident producer licensure under I.C. § 27-1-15.6-8.

and a mortgage broker's license revocation from the State of Florida. *Ex. 1; Exhibit 2 ("Ex. 2"); Exhibit 3 ("Ex. 3"); Exhibit 4 ("Ex. 4"); Exhibit 5 ("Ex. 5"); Tr. at p. 14-25.*

8. In August 2011, the State of Florida's Office of Financial Regulation (OFR) and the Petitioner entered into a settlement agreement concerning violations committed by the Petitioner in 2006 and 2007. The violations included receiving yield spread premium as a result of seven loan closings that were not disclosed to the borrowers on the mortgage brokerage contract; failing to properly disclose mortgage brokerage fees on mortgage brokerage contracts in ten loan files; receiving a higher mortgage brokerage fee than disclosed; and having conflicts of interest not disclosed to four borrowers. The Petitioner's mortgage broker's license was revoked and a \$5,000 fine was imposed. *Ex. 2; Ex. 3; Ex. 4; Ex. 5; Tr. at p. 20-22.*

9. Ms. Dain testified that the Petitioner had not revealed the administrative actions and revocation of his mortgage broker's license on his Application. *Tr. at p. 14-15.*

10. The Petitioner testified that it had been his first time using the National Insurance Producer Registry to submit his Application to the Department and that he had also misunderstood the question. *Tr. at p. 18-19.*

11. 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. and 4-21.5-3 et seq.*

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

3. The Petitioner received notice of the Preliminary Administrative Order and Notice

of License Denial, in compliance with I.C. §§ 4-21.5-3-1 and 27-1-15.6-12(d).

4. Pursuant to I.C. § 27-1-15.6-12(b)(1), the Commissioner may refuse to issue an insurance producer license to a person for having provided incorrect, misleading, incomplete, or materially untrue information on an application for insurance producer licensure.

5. The Petitioner has previous administrative actions with the State of Florida.

6. The Petitioner's administrative actions with the State of Florida warrant license denial under I.C. § 27-1-15.6-12(b)(9).

7. Pursuant to I.C. § 27-1-15.6-12(b)(9), the Commissioner may refuse to issue an insurance producer license to a person for having had "an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory." (emphasis added).

8. The Petitioner failed to disclose his administrative actions and mortgage broker license revocation on his Application.

9. The Petitioner's non-disclosure of the administrative actions and the mortgage broker license revocation warrant license denial under I.C. § 27-1-15.6-12(b)(1).

10. The Petitioner has not met his burden of proof and shown that the Denial Order 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 shall be affirmed.

2. The Petitioner shall be DENIED a non-resident insurance producer license.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 21 day of October 2015.



Amy L. Beard
Administrative Law Judge

Distribution:

JACQUESSAINT MENELAS
3370 NW 21st Ct
Coconut Creek, FL 33066

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

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BEFORE THE INDIANA
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Cause No.: 13577-AD15-0324-011

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APPLICATION OF:)
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Jacquessaint Menelas,)
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Coconut Creek, FL 33066)

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STATE OF INDIANA
DEPT. OF INSURANCE

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 Indiana Code §27-1-15.6-12, hereby gives notice to Jacquessaint Menelas ("Applicant") of the following Administrative Order:

1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on December 30, 2014.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code §27-1-15.6-6 and Indiana Code §27-1-15.6-12.
3. Indiana Code §27-1-15.6-12(b) provides, in part, that 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.
4. Following a review of materials submitted by Applicant in support of his application, the Commissioner being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure as stated by Indiana Code §27-1-15.6-12 due to his failure to disclose 4 administrative actions and a mortgage broker's license revocation on his application for licensure.

5. Indiana Code §27-1-15.6-12(d) provides that the applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or non renewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action.

IT IS THEREFORE ORDERED that the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §27-1-15.6-12 (b).

4-2-15
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Jacquessaint Menelas
3370 NW 21st Ct
Coconut Creek, FL 33066

Calla Dain, Insurance Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-8687, fax 317 234-2103

CERTIFIED MAIL RECEIPT: 9214 8901 0661 5400 0052 3753 29