

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 15129-AG16-0308-044

IN THE MATTER OF:

INSURANCE PRODUCER LICENSE
APPLICATION OF:

Andrew J. Arnold
8791 Lindsey Ct
Fishers, IN 46038
Respondent

Type of Agency Action: Enforcement
Indiana Insurance License No. 2783690

FILED

JUN 23 2016

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On May 12, 2016, the Administrative Law Judge, Reuben B. Hill, 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 Respondent by mailing the same to his 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:

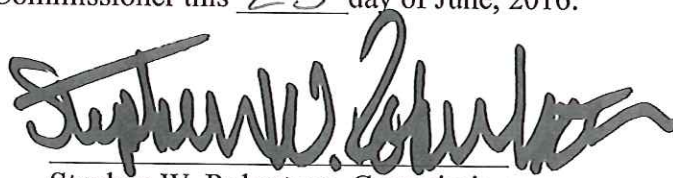
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. That the refusal to renew Respondent's Indiana Producer License be reversed due to the nature of the convictions, as they were all related to Respondent alcoholism and ADHD diseases which he is under continuous treatment for; the fact that Respondent has not had any alcohol in three (3) years; Respondent has not had any convictions that was not related to his alcoholism and has not had any issues with the law since his three (3) years of sobriety.

2. Respondent's resident producer license is renewed and placed on a probationary status for a period of three (3) years.

Under Ind. Code §4-21.5-5-5, Respondent 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 23 day of June, 2016.

A handwritten signature in dark ink, appearing to read "Stephen W. Robertson", is written over a horizontal line.

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Andrew J. Arnold
8791 Lindsey Ct
Fishers, IN 46038

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

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Andrew J. Arnold
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MAY 12 2016

STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge Reuben B. Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Andrew J. Arnold ("Respondent"). This matter came to be heard by Judge Reuben B. Hill, on April 21, 2016 at 10:30 a.m. at the Indiana Department of Insurance.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Brigitte Collier. Respondent 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. Respondent is an Indiana resident licensed insurance producer, holding license number 2783690 since November of 1997 ("Respondent's license").
2. Respondent's license expired on February 29, 2016.
3. On February 29, 2016, Respondent submitted application for license renewal.
4. On or about March 3, 2016, the Department discovered that Respondent failed to report his criminal convictions.
5. On March 18, 2016, the Department filed its "Preliminary Administrative Order and Notice of Nonrenewal of License" ("the Order").
6. Service of process was completed via the United States Mail in compliance with the statute and due process requirements.
7. The Order noted that Respondent failed to timely report his December 2008 misdemeanor criminal recklessness, November 2010 misdemeanor battery and criminal confinement, and his January 2014 misdemeanor resisting law enforcement convictions.
8. The Order also noted that Respondent failed to disclose his criminal convictions on his September 2013 and February 2016 license renewal applications.
9. Citing Indiana Code § 27-1-15.6-17(b), the Respondent was denied license renewal due to his failure to report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction not more than thirty (30) days after an initial pretrial hearing date.
10. Citing Indiana Code § 27-1-15.6-12(b)(1), the refusal of his license renewal was due to Respondent providing incorrect, misleading, incomplete, or

materially untrue information in a license application by his failure to disclose his criminal convictions to the Department on his renewal applications for licensure.

11. Citing Indiana Code § 27-1-15.6-12(b)(2)(A), the Commissioner may refuse to renew a producer's license for violating an insurance law.

12. The Order further notified the Respondent that should he wish for a review of the decision, he must notify the Department within sixty-three (63) days.

13. The Respondent notified the Department that he wished to have a hearing on the matter.

14. A hearing was conducted on April 21, 2016 with the Respondent present in person and without legal counsel and the Department represented by attorney Brigitte Collier.

15. During the hearing, the Respondent admitted to having been convicted of the misdemeanor criminal convictions.

16. The Department entered into evidence State Exhibits 1 and 2 as copies of Respondent's September 2013 and February 2016 license renewal applications.

17. The Department also entered into evidence State Exhibits 3, 4 and 5 as copies of Respondent's chronology case summary of his criminal convictions from the State of Indiana Odyssey Court case search database.

18. Respondent entered into evidence, several Exhibits consisting of character reference letters from employers and colleagues, mental health professionals and a copy of his resume which shows that he has been in the insurance business for over eighteen (18) years. Respondent's mental health documents explain his battle with alcohol dependence and ADHD which was not diagnosis until 2013.

19. Respondent stated that he has worked hard to continue his progress and treatments by obtaining his weekly Alcoholics Anonymous meetings and meeting with his mental health counselor; he also has not had a drink of alcohol in three (3) years.

20. The Department then requested that the Court take judicial notice of Indiana Code § 27-1-15.6-17(b) which states not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.

21. The Department requested that the Court take judicial notice of Indiana Code § 27-1-15.6-12(b)(1) which authorizes the Commissioner to refuse to renew a producer's license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.

22. The Department also requested that the Court take judicial notice Indiana Code § 27-1-15.6-12(b)(2)(A), which authorizes the Commissioner to refuse to renew a producer's license for violating an insurance law.

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. Indiana Code § 27-1-15.6-17(b) states not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.

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

5. Specifically Indiana Code § 27-1-15.6-12(b)(1) states that the Commissioner may to refuse to renew a producer's license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.

6. Indiana Code § 27-1-15.6-12(b)(2)(A), states that the Commissioner may to refuse to renew a producer's license for violating an insurance law.

1. 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.

2. 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."

3. Respondent's failure to report his criminal prosecutions warrant license denial under Indiana Code § 27-1-15.6-12(b) and Indiana Code § 27-1-15.6-17(b).

4. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

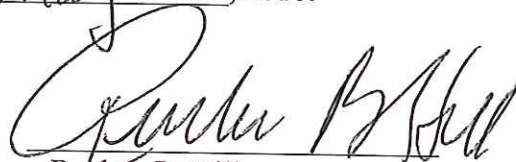
RECOMMENDED ORDER

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 refusal to renew Respondent's Indiana Producer License be reversed due to the nature of the convictions, as they were all related to Respondent alcoholism and ADHD diseases which he is under continuous treatment for; the fact that Respondent has not had any alcohol in three (3) years; Respondent has not had any convictions that was not related to his alcoholism and has not had any issues with the law since his three (3) years of sobriety.

2. Respondent's resident producer license shall be renewed and placed on a probationary status for a period of three (3) years.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 12th day of May, 2016.



Reuben B. Hill
Administrative Law Judge

Distribution:

Andrew J. Arnold
8791 Lindsey Ct
Fishers, IN 46038

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

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Type of Agency Action: Enforcement

Indiana Insurance License No. 2783690

FILED

MAR 18 2016

STATE OF INDIANA
DEPT. OF INSURANCE

ADMINISTRATIVE ORDER
NOTICE OF NONRENEWAL OF LICENSE

The Indiana Department of Insurance, pursuant to Indiana Code § 4-21.5-1 *et seq.*, and Indiana Code § 27-1-15.6-12, hereby gives notice to Andrew J. Arnold, ("Respondent") of the following Administrative Order:

1. Respondent, a resident of Indiana, is a licensed insurance producer, holding license number 2783690 since November of 1997 ("Respondent's license").
2. Respondent's license expired on February 29, 2016.
3. On August 01, 2005, Respondent was convicted of Operating While Intoxicated, a Class A Misdemeanor.
4. On December 17, 2008, Respondent was convicted of Criminal Recklessness, a Class A Misdemeanor.
5. On November 24, 2010, Respondent was convicted of Battery and Criminal Confinement, both Class A Misdemeanors.

6. On November 16, 2011, Respondent was convicted of Operating While Intoxicated, a Class A Misdemeanor.

7. Respondent failed to timely report his criminal proceedings to the Department.

8. On September 30, 2013, Respondent submitted an application for licensure renewal, in which he failed to disclose his criminal convictions.

9. On January 29, 2014, Respondent was convicted of Operating While Intoxicated and Resisting Law Enforcement, both Class A Misdemeanors.

10. On May 27, 2014, Respondent was convicted of Public Intoxication, a Class B Misdemeanor.

11. Respondent failed to timely report his 2014 convictions to the Department.

12. On February 29, 2016, Respondent submitted an application for licensure renewal, in which he failed to disclose seven (7) of his eight (8) criminal convictions.

13. Pursuant to Indiana Code § 27-1-15.6-17(b) states not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.

14. Pursuant to Indiana Code § 27-1-15.6-12(b)(1) the Commissioner may refuse to renew a producer's license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.

15. Pursuant to Indiana Code § 27-1-15.6-12(b)(8) the Commissioner may refuse to renew a producer's license for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

16. Indiana Code § 27-1-15.6-12(d) requires the Commissioner to notify a licensee of the reason for the nonrenewal of his license. This Order serves as that notice.

17. The Commissioner further notifies Respondent that, pursuant to Indiana Code § 27-1-15.6-12(d), Respondent may, within sixty three (63) days of the mailing of this Order, make a written demand upon the Commissioner for a hearing to determine the reasonableness of this action. Such a hearing shall be held within thirty (30) days from the date of receipt of Respondent's written demand.

WHEREFORE, based on the foregoing, the Commissioner of Insurance hereby notifies Respondent that **his license shall not be renewed**, for his failure to timely report his criminal proceedings to the Department, and for his failure to disclose seven (7) criminal convictions in his applications for licensure.

3-18-14

Date Signed

A large, stylized handwritten signature in black ink, which appears to read "Stephen W. Robertson". The signature is written over a horizontal line.

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Calla Dain, Insurance Investigator
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Indianapolis, Indiana 46204-2787

Andrew J. Arnold
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Fishers, IN 46038

Certified Mail Receipt: 91 7190 0005 2720 0057 1677