

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMER: 14992-AG16-2016-033

IN THE MATTER OF:

INSURANCE PRODUCER LICENSE
APPLICATION OF:

Tony Labarre
7100 Regency Square Blvd.
Suite 260
Houston, TX 77036

Applicant.

FILED

OCT 13 2016

STATE OF INDIANA
DEPT. OF INSURANCE

**NOTICE OF FINAL ORDER REJECTING RECOMMENDED ORDER AND DENYING
INDIANA PRODUCER LICENSE APPLICATION**

Pursuant to Indiana Code 4-21.5-3-29(e), the parties of this action are hereby notified that the Commissioner, Stephen W. Robertson, has reviewed and modified the Recommended Order submitted by Administrative Law Judge Reuben B. Hill on August 17, 2016. The Commissioner sets forth his reasoning for modification of the Recommended Order in the following

Conclusions of Law and Findings of Fact, attached hereto, with a Final Order DENYING the application for a nonresident producer license. This Final Order is deemed filed as of this date.

FINDINGS OF FACT

1. On January 19, 2016, Tony Labarre ("Applicant") submitted to the Department an application for a nonresident producer's license.

2. On May 13, 2016, the Department filed its "Preliminary Administrative Order and Notice of License Denial" ("The Order") noting that on his application, the Applicant failed to disclose a 2002 administrative action taken against his license by the Texas Department of Insurance, contrary to Indiana Code § 27-1-15.6-12(b)(1).

3. The Order further notified the Applicant that, should he wish for a hearing regarding the license denial, he must notify the Department within sixty-three (63) days; Applicant notified the Department that he wished to have a hearing on the matter.

4. A hearing was conducted on June 22, 2016, with the Applicant present over the telephone, without counsel, and the Department represented by attorney, Cathleen Nine-Altevogt.

5. During the hearing, the Applicant admitted to signing a March 21, 2002, Official Order of the Commissioner of Insurance of the State of Texas ("Texas Order").

6. According to the Texas Order, which was admitted into evidence, Applicant, from 1998 to 1999, improperly conducted the business of insurance through certain insurance agencies and specifically committed the following violations of Texas insurance law:

- a. Applicant failed to provide the Texas Department of Insurance certifications identifying assumed names;

- b. Applicant failed to register assumed names that he used to conduct insurance business;
- c. Applicant knowingly allowed unlicensed individuals to perform the acts of property and casualty solicitors;
- d. Premium money was misappropriated by the unlicensed individuals who were employed by the Applicant.
- e. His office accepted premium money and issued a Texas Automobile Insurance Identification Card from Southern County Mutual Insurance Company suggesting that automobile coverage was placed, but said coverage was never actually applied for.

7. As a result of the Texas Order, Applicant testified that he had to pay a \$7500 fine, make restitution payments to Elite Rental Car for failure to place insurance coverage, and his license was placed on two years of probation.

8. Applicant also admitted that the Texas administrative action was not disclosed on his Indiana application because an employee, who was unaware of Applicant's Texas Order, had filled out Applicant's License application on his behalf.

9. Applicant stated that he did not think to tell the employee about the administrative action, but he knew that the employee was filling out the Indiana application on his behalf.

10. Applicant testified that the employee, Lowell Abrahams, fills out all of his license applications and drafts the Applicant's contracts with other companies.

11. Applicant testified that he is licensed to sell insurance in Illinois and Texas, and he submitted applications to sell insurance in Tennessee and Louisiana.

12. Applicant testified that he disclosed the Texas Order in his license applications for Tennessee and Louisiana, and that neither state has taken action against the applicant for his conduct in Texas.

13. The Applicant offered four (4) letters into evidence. These four letters were entered into evidence as Applicant's exhibits "A" through "D."

14. Applicant's exhibits "A" through "D" were letters of recommendation from various individuals that know the applicant. These individuals include a mortgage broker Applicant does business with, his certified public accountant, his attorney, and an associate.

15. Applicant further testified that he had been a licensed producer in Texas for approximately 32 years where his license is currently in good standing, and that he is actively involved in his community.

16. The Department entered into evidence, as Exhibit 1, a copy of the nonresident producer application that was submitted by the Applicant to the Department on January 19, 2016.

17. The Department then entered into evidence, as Exhibit 2, a copy of the 2002 Texas Order.

18. At the conclusion of the hearing, Administrative Law Judge Reuben B. Hill asked the parties to submit Proposed Findings of Fact, Conclusions of Law, and Recommended Orders for him to consider.

19. On August 17, 2016, Administrative Law Judge Reuben B. Hill adopted the Proposed Findings of Fact, Conclusions of Law, and Recommended Order offered by the Enforcement Division of the Indiana Department of Insurance.

20. The Recommended Order called for Applicant's producer license to be issued on a probationary period of two years, during which time, Applicant is required to adhere to all insurance laws.

21. Neither party objected to the Recommended Order.

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 § 4-21.5-3-29(e) states that the Commissioner may serve written notice of his intent, to parties described in Indiana Code § 27-21.5-3-5(b), to review any issue related to a recommended order if no timely objection is filed.

4. No parties objected to the Recommended Order and the attached notice has been provided to all relevant parties, and, therefore, the Commissioner intends to review whether the Applicant's previous conduct warrants a denial of his application for a nonresident producer license.

5. Indiana Code § 27-1-15.6-12(b) states that the Commissioner may refuse to issue a license application, or place an insurance producer on probation, due to a number of factors.

6. Specifically, Indiana Code §27-1-15.6-12(b)(1), (2), (4) and (12) state that the Commissioner may deny or place an insurance producer license on probation for providing incorrect, misleading, or materially untrue information in a license application; by violating an insurance law or regulation of another state; by misappropriating monies in the course of doing

insurance business or; knowingly accepting insurance business with individuals who are not licensed.

7. Indiana Code § 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward; here, the Applicant is requesting that the Department issue his nonresident producer license and, therefore, bears the burden.

8. Applicant's failure to disclose the Texas Order on his Indiana license application constitutes providing, incorrect, misleading, or materially untrue information.

9. The Texas Order also provides ample evidence that Applicant violated multiple insurance laws and regulations of another state; specifically, laws against misappropriating funds and using unlicensed solicitors to generate policies.

10. Applicant has been an insurance producer for over 30 years and recently applied for licensure in two other states where he disclosed the Texas Order on his applications. This disclosure of serious past violations did not occur on his Indiana nonresident producer license.

11. Given the Applicant's prior experience and familiarity with business of insurance including the license application process, it is appropriate for the Commissioner to deny the Applicant's application for a nonresident producer license, due to the significant disclosure failure.

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

FINAL ORDER


With the Findings of Fact and the Conclusions of Law as stated, the Commissioner of Insurance, having fully reviewed the Recommended Order at hand, now hereby issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Applicant's Indiana Producer License Application is DENIED pursuant to Indiana Code §27-1-15.6-12(b).

Under Indiana 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 13 day of October, 2016.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Tony LaBarre
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Houston, TX 77036

Cathleen Nine-Altevogt, Attorney
Indiana Department of Insurance
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Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:14992-AG16-0216-033

IN THE MATTER OF:

INSURANCE PRODUCER LICENSE
APPLICATION OF:

Tony Labarre
7100 Regency Square Blvd.
Suite 260
Houston, TX 77036

Applicant.

FILED

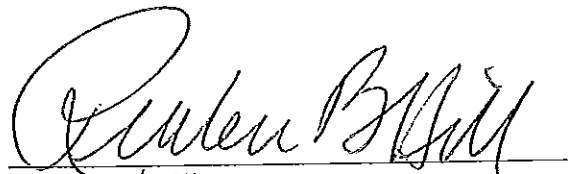
AUG 17 2016

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.



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 14992-AG16-0216-033

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Tony Labarre)
7100 Regency Square Blvd Ste 260)
Houston, TX 77036)
)
Application ID: 519251)

FILED

MAY 13 2016

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code §4-21.5-1 *et seq.* and Indiana Code §27-1-15.6-12, hereby gives notice to Tony Labarre ("Applicant") of the following Administrative Order:

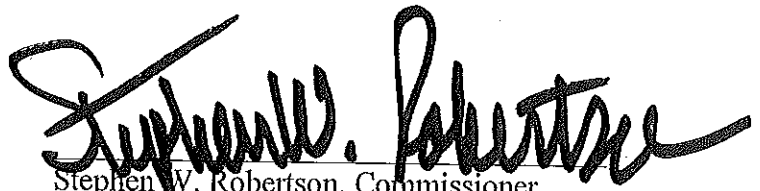
1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on January 19, 2016.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code §27-1-15.6-8 and Indiana Code §27-1-15.6-12.
3. Indiana Code §27-1-15.6-12(b)(1) 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 on the National Insurance Producer Registry which were not submitted on the Applicant's 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(b)(1) due to and failure to disclose a March 11, 2002 administrative action by the Texas Department of Insurance for paying commissions to unlicensed agents for sales 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 Applicant's request for licensure is hereby **DENIED** pursuant to Indiana Code §27-1-15.6-12(b)(1), due to the failure to disclose a March 11, 2002 administrative action by the Texas Department of Insurance for paying commissions to unlicensed agents for sales on his application for licensure.

5/13/11
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

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