

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:15011-AG16-0505-117

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Douglas Thomas)
4941 N. Saint Patrick's Court)
Bloomington, IN 47404)

FILED

OCT 27 2016

STATE OF INDIANA
DEPT. OF INSURANCE

Applicant.

FINAL ORDER

On September 14, 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.

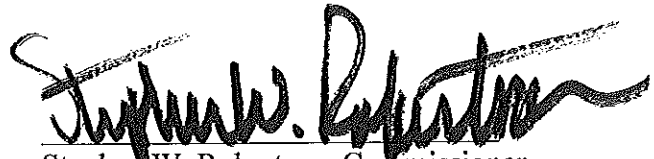
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Applicant's Indiana producer license application denial is affirmed.

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 27 day of October, 2016.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Douglas Thomas
4941 N. Saint Patrick's Court
Bloomington, IN 47404

Cathleen Nine-Altevogt, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

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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

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

Administrative Law Judge Reuben Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Douglas Thomas ("Applicant"). This matter came to be heard by Reuben Hill, on July 7, 2016 at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Cathleen Nine-Altevogt. 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. On February 1, 2016, Applicant submitted to the Department an application for a resident 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 disclosed a December 2, 2002 felony conviction, contrary, in part, to Indiana Code § 27-1-15.6-12(b).
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 July 7, 2016, with the Applicant present in person, without counsel, and the Department represented by attorney, Cathleen Nine-Altevogt.
5. During the hearing, the Applicant admitted that he was convicted on December 2, 2002 of Fraud on a Financial Institution, a Class C Felony, in Boone County and was sentenced to four years of probation.
6. Applicant stated that at the time of the incident he possessed bank accounts at First Indiana Bank and at CompuBank.
7. According to the charging documents that were admitted into evidence, Applicant made a two thousand dollar (\$2000) initial deposit at CompuBank, made no further deposits therein, and then wrote a check for forty five thousand dollars (\$45,000) drawn on the CompuBank account.

8. The forty five thousand dollar (\$45,000) check was placed in the First Indiana Bank account, which had a total of five hundred thirteen dollars (\$513) at the time.

9. From the First Indiana Bank account, Applicant withdrew and wrote checks totaling twenty one thousand fourteen dollars and seventy cents (\$21,014.70).

10. Applicant admitted that neither account actually had that kind of money and he wanted to take advantage of the float, which he defined as the time between writing the check to the time it is presented in cash.

11. Applicant stated that he withdrew the money for a friend who needed a loan in order to ship dump trucks to South Africa for a business venture; Applicant expected the friend would pay him back immediately.

12. Applicant's friend never repaid the money.

13. Applicant stated that his 2002 conviction was ". . . [T]he only incident that I've had in my life where I've had an issue with law enforcement." (*Trial record at page 19*)

14. Applicant later stated that he was involved with law enforcement in Marion County when he was charged, but ultimately found not guilty. of domestic violence in 2011.

15. Applicant submitted with his license application a statement saying he successfully completed his probation in the 2002 criminal matter and had not had ". . . any incidents since that time." (*Exhibit 2*)

16. Applicant later stated that he was charged with check deception in Floyd County in 2011 but the charges were ultimately dismissed and Applicant contends he was an unrelated party to the matter.

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

4. Specifically, Indiana Code § 27-1-15.6-12(b)(6) states that the Commissioner may deny an insurance producer license for having been convicted of a felony.

5. 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, Applicant is requesting that the Department issue his resident producer license and, therefore, bears the burden.

6. Applicant's conviction of felony fraud on a financial institution and inconsistent testimony warrants license denial.


7. 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 Applicant's Indiana producer license application denial be affirmed.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 17th day of Sept, 2016.


Reuben Hill
Administrative Law Judge

Distribution:

Douglas Thomas
4941 N. Saint Patrick's Court
Bloomington, IN 47404

Cathleen Nine-Altevogt, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

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Application ID: 520147)

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MAY 13 2016

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

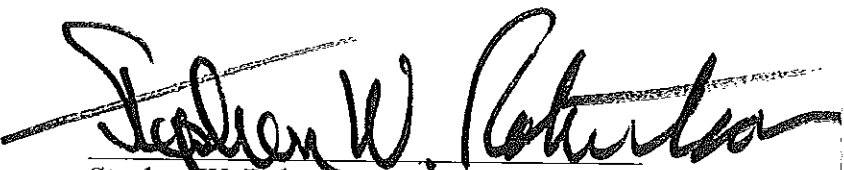
The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code §4-21.5-1 *et seq.* and Indiana Code §27-1-15.6-12, hereby gives notice to Douglas Thomas ("Applicant") of the following Administrative Order:

1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on February 1, 2016.
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, and for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

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 December 2, 2002 conviction for Fraud on a Financial Institution, a Class "C" Felony
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), for failing to disclose his criminal history in a license application.

5/13/14
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Douglas Thomas
4941 N. Saint Patrick's Ct
Bloomington, IN 47404

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Indiana Department of Insurance
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Indianapolis, IN 46204
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