

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER:15213-AD16-0525-036

IN THE MATTER OF:                     )  
  )  
INSURANCE PRODUCER LICENSE         )  
APPLICATION OF:                        )  
  )  
Augustine S. Simpkins                 )  
P.O. Box 612                            )  
Bowling Green, Ohio 43402            )

**FILED**

OCT 27 2016

STATE OF INDIANA  
DEPT. OF INSURANCE

Applicant.

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**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 her 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 denial of the Applicant's nonresident producer application be 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:

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Cathleen Nine-Altevogt, Attorney  
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SEP 14 2016

STATE OF INDIANA  
DEPT. OF INSURANCE

Applicant.

**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 Augustine S. Simpkins ("Applicant"). This matter came to be heard by Reuben Hill, on July 20, 2016, at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Cathleen Nine-Altevogt. Applicant appeared over the phone 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 March 24, 2016, Applicant submitted to the Department an application for a nonresident producer's license.
2. On June 3, 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 April 24, 2015 State of Illinois Department of Insurance Stipulation and Consent Order ("Illinois Order"), 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; Applicant notified the Department that he wished to have a hearing on the matter.
4. During the hearing, Applicant admitted entering into the Illinois Order.
5. According to the Illinois Order, in 2011 Applicant submitted a policy application on behalf of a consumer, without their knowledge or consent, and the application included the consumer's bank account information for automatic monthly premium payments.
6. Applicant had previously submitted, with the consumer's knowledge and consent, a policy application with another insurer, but the policy never went into effect.
7. Applicant denied the allegations in the Illinois Order claiming that the consumer consented to both applications and the second application was submitted after the consumer's actions caused the first policy to not go into effect.

8. Applicant admits that he signed the Illinois Order containing the allegations that he submitted an insurance policy containing the consumer's bank information without the consumer's permission.

9. Applicant paid a five thousand dollar (\$5,000) fine as a result of the Illinois Order.

10. Applicant admitted that he had similar disclosure issues in his home state, Ohio, where he was fined for failing to reveal the Illinois Order on his license renewal.

11. Applicant contends he did not disclose the Illinois Order on his Indiana application because he believed it had not negatively impacted his license.

### **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)(1) provides that the Commissioner may deny an insurance producer license for providing incorrect, misleading, incomplete or materially untrue information on a license application.

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 nonresident producer license and, therefore, bears the burden.

6. Applicant's undisclosed 2015 Illinois administrative action warrants license denial.

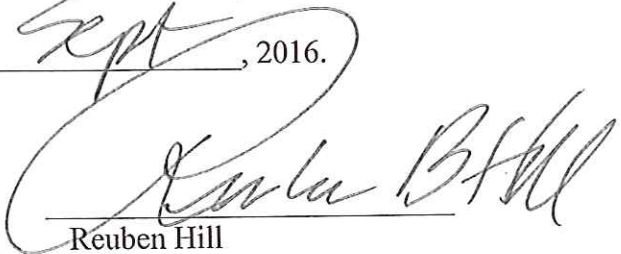
7. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

### 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 denial of the Applicant's nonresident producer application be affirmed.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 14<sup>th</sup> day of Sept, 2016.

  
Reuben Hill  
Administrative Law Judge

Distribution:

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Augustine S. Simpkins                 )  
P.O. Box 612                             )  
Bowling Green, OH 43402               )

**FILED**

JUN 03 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 Augustine S. Simpkins ("Applicant") of the following Administrative Order:


1. Applicant filed an application for nonresident licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on March 24, 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) 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 an April 24, 2015 Consent Order issued by the Illinois Department of Insurance in his application for Indiana licensure.

6. Indiana Code §27-1-15.6-12(d) provides that the applicant may, not more than sixty-three (63) days after notice of denial of the application 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 his failure to disclose an administrative action in a license application.

6-3-16  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

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