

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:15419-AD16-0614-045

IN THE MATTER OF:)

Kenneth Roy)
W8441 Shorewood Meadows Cr.)
Lake Mills, WI 53551)

Applicant.)

FILED

DEC 16 2016

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On November 3, 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 counsel.

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. Applicant's independent adjuster license is GRANTED on a two (2) year probationary basis. Applicant is required to adhere to all insurance laws or the Department will seek immediate revocation of license.

2. Applicant is to pay a civil penalty of five hundred (\$500.00) dollars within thirty (30) days to the Enforcement Division of the Department.

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 16 day of December, 2016.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

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STATE OF INDIANA)
) SS:
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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 15419-AD16-0614-045

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Kenneth Roy)
W8441 Shorewood Meadows Cir)
Lake Mills, WI 53551)
)
Application ID: 534850)

FILED

JUN 22 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 §27-1-28-18, hereby gives notice to Kenneth Roy (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on May 19, 2016.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code §27-1-28-17 and Indiana Code §27-1-28-18.
3. Indiana Code §27-1-28-18(a)(6) provides, in part, that the Commissioner may refuse to issue or renew an independent adjustor license for having been convicted of a felony.
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 §27-1-28-18(a)(6), because Applicant has been convicted of a felony in the state of Wisconsin.

5. Indiana Code §27-1-28-18(c) provides that the Applicant may, not more than thirty (30) days after notice of denial of the applicant's 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)(6), due to having been convicted of a Felony H for OWI (4th w/in 5 years).

6-22-14
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

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STATE OF INDIANA)
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COUNTY OF MARION)

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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER:15419-AD16-0614-045

IN THE MATTER OF:

Kenneth Roy
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FILED

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STATE OF INDIANA
DEPT. OF INSURANCE

**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 Kenneth Roy (“Applicant”). This matter came to be heard by Reuben Hill on August 17, 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 in person and was represented by counsel, Matthew C. Branich. 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 May 19, 2016, Applicant, a Wisconsin resident, applied for an independent adjuster's license.

2. Wisconsin does not license independent adjusters, therefore, Applicant's resident licensure is through Indiana.

3. On June 22, 2016, the Department filed its Preliminary Administrative Order and Notice of License Denial ("Denial Order").

4. The Denial Order 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 wanted a hearing on the matter.

5. Applicant has a history of drinking and driving. Applicant admitted to misdemeanor driving while intoxicated convictions in 1999 and 2007. He was also convicted of the same offense on or about 2003, but he could not precisely remember the year.

6. Applicant admitted that on August 13, 2012, he was charged with Felony Operating While Intoxicated in Jefferson County, Wisconsin.

7. On February 21, 2013, Applicant pled guilty and was sentenced to seven months in Jefferson County Jail with work release privileges and alcohol treatment; Applicant's sentence also included two years of probation.

8. The implementation of Applicant's sentence was delayed until March 2014 because of a pending Court of Appeals decision on the conviction; his conviction was upheld by the Court.

9. Applicant successfully completed his alcohol treatment program.

10. On March 7, 2015, Applicant was discharged from his probation.
11. Prior to his 2012 arrest, Applicant previously attended group therapy and relapsed.
12. Applicant admits that he has an alcohol problem, but he has been sober since August of 2012.
13. Applicant has not been arrested since the 2012 incident.
14. Applicant is a licensed contractor in good standing in Wisconsin, and for the past fifteen years he has owned a business specializing in home construction.
15. Applicant believes his experience as a contractor will make him a good independent adjuster.

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 § 27-1-28-18(a) states that the Commissioner may refuse to issue an independent adjuster license, or place an independent adjuster licensee on probation, due to a number of factors.
4. Specifically, Indiana Code § 27-1-28-18(b)(6) provides that the Commissioner may deny or place a licensee on probation for having been convicted of a felony.
5. Indiana Code § 27-1-28-18(e) provides that the Commissioner, after a hearing and without regard to whether the person is licensed, may impose a civil penalty.

6. 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 independent adjuster license and, therefore, bears the burden.

7. Applicant's long-standing drinking problem culminated in his 2013 felony conviction but he takes responsibility for his actions and has been sober since 2012, therefore, a probationary license, where he can further demonstrate his fitness and sobriety, is an appropriate resolution.

8. 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) Applicant's independent adjuster license is granted on a **two year probationary basis**, during which time, Applicant is required to adhere to all insurance laws or the Department will seek immediate revocation of his license.
- 2) Applicant shall pay a **\$500 civil penalty** in accordance with Indiana Code § 27-1-28-18(e).

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to
the Commissioner this 3rd day of November, 2016.

A handwritten signature in black ink, appearing to read "Reuben Hill". The signature is written in a cursive style with a large, looping initial "R".

Reuben Hill
Administrative Law Judge

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