

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 15858-AD16-1212-096

IN THE MATTER OF:

Dustin Andrew Cross
8844 Ganton Court
Indianapolis, IN 46234

Applicant.

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FILED

MAY 12 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On April 18, 2017, 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 refusal to issue Applicant's Indiana producer license is affirmed.
2. Applicant shall reapply for licensure after he has produced valid proof that he had his theft conviction expunged.

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 12 day of May, 2017.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Dustin Andrew Cross
8844 Ganton Court
Indianapolis, IN 46234

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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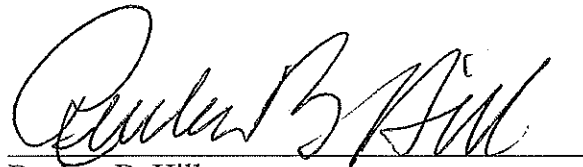
APR 18 2017

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

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

Administrative Law Judge Reuben B. Hill (“ALJ”), having heard, reviewed and considered all of the evidence, will now render a decision concerning the matter of (“Applicant”). This matter came on to be heard by the ALJ on February 8, 2017 at 11:00 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, Claire Szpara. Applicant appeared in person and without counsel. Evidence was heard and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and issues the Recommended Order.

FINDINGS OF FACT

1. On November 28, 2016, Applicant applied for his resident insurance producer license.
2. Applicant failed disclose on his application a September 14, 2007 Class A Misdemeanor Theft conviction.
3. On April 16, 2007, Applicant and a friend were stopped by police outside the store Von Maur on suspicion of shoplifting. While Applicant's friend was detained, Applicant ran from the police.
4. Police pursued Applicant as he ran from Von Maur, behind Kohls, and into a movie theatre.
5. While running through the theatre, Applicant ran past a family with a small child. Applicant pushed the child out of his way.
6. Applicant proceeded to empty his pockets in the theatre, which contained scissors and a shirt tag.
7. When caught by police inside the theatre, Applicant stated, "You got me! I'm not going to run anymore".
8. Applicant admitted he knew the police were looking for him and he fled into the theatre to get away.
9. Applicant admitted to taking a pair of Diesel jeans and a Lacoste button-up shirt, totaling Two Hundred and Seventy Dollars (\$270.00).
10. Applicant was fined Two Thousand Dollars (\$2000.00) and required to abide by inactive probation, complete forty (40) hours of community service, and enroll at Indiana State University and maintain a C or better GPA. Applicant stated he successfully completed these requirements.

11. During the hearing, Applicant stated he was “scare” when police approached him and his friend at Von Maur, because he “knew that (they) had stolen goods”.
12. Applicant became licensed with Financial Industry Regulatory Authority (“FINRA”) on July 15, 2016.
13. Applicant stated that human resources assisted him when applying for FINRA licensure, asking him for documents and submitting a small paragraph as to his criminal history.
14. Applicant admitted when filling out his Indiana application he was “a little confused on the questions and rushed through”, and was careless when applying.
15. Applicant stated he disclosed his theft conviction for FINRA licensure, and admitted he did not disclose the theft conviction on his Indiana application because “he wasn’t even thinking about it.
16. During the hearing, Applicant stated he passed his Series 6 investment company products/variable life contracts representative exam, and is planning to take the Series 7 General Securities Representative Exam (“GSRE”).

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 an insurance producer license, due to a number of factors.

4. Specifically, Indiana Code 27-1-15.6-12(b)(1) provides that the Commissioner may refuse to issue a license for “providing incorrect, misleading, incomplete, or materially untrue information in a license application”.
5. Applicant’s failure to disclose his September 14, 2007 misdemeanor theft conviction demonstrates providing incorrect, misleading, incomplete, or materially untrue information on his license. Application.
6. Facts in aggravation include Applicant being careless on his application by rushing through the questions, and that Applicant disclosed his criminal history on his FINRA application, which was prior to him applying for Indiana licensure.
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. Applicant is requesting that Department issue his resident producer license and, therefore, bears the burden.
8. Pursuant to Indiana Code 27-1-15.6-12(d), the hearing was held to determine the reasonableness of the Commissioner’s decision. Applicant failed to prove that the Commissioner’s decision to deny his insurance producer license was unreasonable.
9. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

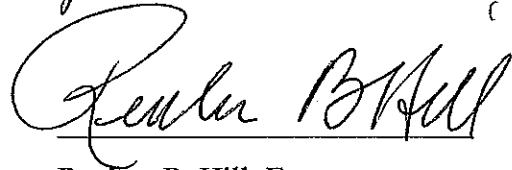
RECOMMENDED ORDER

In consideration of 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 issue Applicant's resident insurance producer license be affirmed, until the Applicant has produced valid proof that he has had his theft conviction expunged.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the

Commissioner of Insurance this 18th day of April, 2017.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Dustin Andrew Cross
8844 Ganton Court
Indianapolis, IN 46234

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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Type of Agency Action: Enforcement)
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Application ID: 565985)

FILED

DEC 16 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 Dustin Andrew Cross (“Applicant”) of the following Administrative Order:


1. Applicant filed an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on November 28, 2016.
2. Before approving a resident producer 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 failure to disclose a September 14, 2007 Class A misdemeanor Theft conviction.
5. 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 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 the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §27-1-15.6-12 (b).

12-16-16
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Dustin Andrew Cross
8844 Ganton Court
Indianapolis, IN 46234

Ronda Ankney, Chief Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
phone: 317 232-0687
fax: 317 234-2103
email: rankney@idoi.IN.gov