

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 15427-AG16-0809-152

IN THE MATTER OF:

Grant Gangwer
2218 Poplar Blvd.
Frankfort, IN 46041

Respondent.

FILED

MAR 24 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On February 3, 2017, the Administrative Law Judge, Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Default Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order on Respondent by mailing the same to his counsel 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 Respondent's Indiana producer license be revoked immediately.
2. Respondent is not permitted to reapply for two (2) years.
3. Respondent is fined One Thousand (\$1,000.00) dollars due within sixty (60) days.

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 24 day of March, 2017.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

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P.O. Box 96
Lafayette, IN 47902

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

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.:15427-AG16-0809-152

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
)
Grant Gangwer)
2218 Poplar Blvd.)
Frankfort, IN 46041)

FILED

FEB 03 2017

STATE OF INDIANA
DEPT. OF INSURANCE

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

This matter came on for hearing before Administrative Law Judge Reuben B. Hill on October 12, 2016. The hearing was conducted at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana. Administrative Law Judge Reuben B. Hill having considered and reviewed all the evidence and being duly advised in the premises, now renders a decision in the matter of INSURANCE PRODUCER'S LICENSE OF: Grant Gangwer ('Respondent').

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by legal counsel, Cathleen Nine-Altevogt, attorney at law. Respondent appeared in person and by legal counsel, Stan N. Miller, attorney at law. Evidence was heard and exhibits were received into evidence.

Based upon the evidence presented at the hearing, the Administrative Law Judge now Makes the following Findings of Fact, Conclusions of Law, and issues the Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer in Indiana who obtained his License on October 26, 2015.

2. Respondent received an anonymous complaint alleging that Respondent was Facing a felony charge of Theft. On August 23, 2016, the Enforcement Division of the Department filed its Statement of Charges alleging that Respondent violated Indiana Code 27-1-15.6-12(b)(8) and Indiana Code 27-1-15.6-12(b)(2)(A).

3. At a hearing on October 12, 2016, Respondent admitted that he did not timely report his criminal proceeding to the Department of Insurance because he believed his attorney in the criminal matter had reported the matter to the Department.

4. From March to September 2014, Respondent was employed at Del Real Automotive Group as a service manager.

5. As a service manager, Respondent scheduled customer appointments, ordered parts and supplies, and handled billing and payments.

6. Respondent admitted that he had been caught taking money from Del Real Automotive Group's cash box, but was given a second chance by his employer.

7. Subsequently, Respondent again stole approximately Two Thousand Four Hundred Forty-Four Dollars and Ninety-Nine cents (\$2,444.99) in cash from Del Real Automotive Group by accepting cash payments from customers, showing the customer a zero balance on their bill, and then re-entering that transaction into the system as unpaid. See Exhibit # 2.

8. In December 2014, Respondent was fired from Del Real Automotive Group because of the two (2) thefts.

9. Respondent was initially charged with theft as a Level 6 Felony in Clinton Circuit Court. See Exhibit #2.

10. On June 8, 2016, Respondent signed a plea agreement and was convicted of theft as a Class A Misdemeanor. See Exhibit #3.

11. As a result of his conviction, Respondent was sentenced to serve Three Hundred Sixty-Five days (365) in the Clinton County Jail with credit for 1+ 1 days served and Three Hundred Sixty-Three (363) days suspended to probation. See Exhibit # 4

12. As a condition of probation, Respondent is subject to random drug screens and cannot drink alcohol or use controlled substances without a prescription. See Exhibit #5.

13. Respondent has not completed his criminal probation as of the date of this hearing.
14. Respondent stated he has passed all of his drug screens and has paid full restitution to Del Real Automotive Group. He has also paid all court ordered fines and costs, but asserted that he could not get his records in time for the hearing and some of the records required a court order.
15. Respondent was diagnosed as a child with a genetic disorder called Fanconi Anemia, and he believed his prognosis, that he would not live past his teenage years. He also attributes his addiction to the use of narcotics, alcohol and Adderall as a teenager.
16. Respondent believes his theft conviction can be attributed to his drug addiction.
17. Respondent admits that he attempted sobriety in September 2013 and was only successful for a short period of time.
18. Respondent stated that he checked himself into Fairbanks Outpatient program for rehabilitation in December 2014 and that he has been sober ever since.
19. Respondent stated he takes only one prescription (Suboxone) to control his pain and cravings.
20. Respondent's father testified that his son has been employed in sales at the Delphi Automotive Group's location of Gangwer's Insurance Agency for approximately a year. His father further stated that Respondent is monitored at all times during his employment and if he makes any criminal mistakes, Respondent will be fired immediately.
21. Respondent's father stated that his partner, at another location had a family member misappropriate money and the misappropriation was detected by the agency's system within thirty (30) days.

22. Respondent's father stated that customers at the agency make cash payments to the agency on occasions.

23. Respondent's attorney requested that the charge alleging a violation of Indiana Code 27-1-15.6-12(b)(8) be dismissed because Respondent was not a licensed producer at the time the theft occurred and the statute uses the term "producer"; therefore, the use of the violation in the Statement of Charges was a retroactive application of the statute.

24. Respondent held a producer's license issued to him by the Indiana Department of Insurance at the time of his conviction for the crime of theft.

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. Specifically, Indiana Code 27-1-15.6-12(b)(2)(A) provides that the Commissioner may revoke a insurance producer's license for violating an insurance law.
4. Indiana Code 27-1-15.6-17(b) states that a producer must report to the Commissioner any criminal prosecution not more than thirty (30) days after the initial pretrial hearing date.
5. Respondent violated Indiana Code 27-1-15.6-12(b)(8) by demonstrating untrustworthiness and financial irresponsibility in the conduct of business when he stole from his employer on two (2) separate occasions, the latter for which he was convicted of Class A Misdemeanor theft on June 8, 2016.

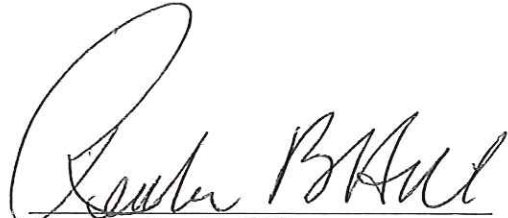
6. The fact that Respondent was not a licensed producer at the time the theft occurred does not make Respondent's violation of Indiana Code 27-1-15.6(b)(8) a retroactive application of the statute. The Commissioner may, penalize criminal behavior that occurred prior to licensure. The Respondent's theft conviction occurred after licensure. The Respondent was a license producer when he was convicted of the crime of theft.
7. Respondent admits to violating Indiana Code 27-1-15.6-12(b)(2)(A) by failing to timely notify the Commissioner of his criminal proceeding of theft.
8. Aggravating factors in this matter include Respondent was given a second chance by his employer, Del Real Automotive.
9. Respondent has not completed serving his sentence.
10. Pursuant to Indiana Code 4-21.5-3-14©, the Department bears the burden to show that Respondent's insurance producer license should be revoked.
11. The Department met its burden by presenting evidence showing that Respondent was convicted of theft on June 8, 2016, while he was the holder of a valid producer's license issued by the Indiana Department of Insurance.
12. Findings of Facts that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

1. In Consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following: That the Respondent's Indiana producer license be revoked immediately upon issuance of the Final Order in this matter.

2. That the Respondent should not be permitted to reapply for Two (2) years.
3. That the Respondent be fined One Thousand Dollars (\$1,000).

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 3rd day of February, 2017.



Hon. Reuben B. Hill
Administrative Law Judge

Distribution:

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 15427-AG16-0809-152

IN THE MATTER OF:

Grant Gangwer
2218 Poplar Blvd
Frankford, IN 46041

Producer's License No. 3117245

Respondent.

FILED

AUG 23 2016

STATE OF INDIANA
DEPT. OF INSURANCE

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance ("Department"), pursuant to Indiana Code §§ 4-21.5-1 and 27-1-15.6 *et seq.*, files its Statement of Charges against Grant Gangwer ("Respondent"), a resident insurance producer licensed in the State of Indiana, as follows:

FACTS

1. Respondent is a resident insurance producer, holding license number 3117245.
2. On or about June 08, 2016, the Department received an anonymous tip that On March 08, 2016, in the Clinton County, Indiana Circuit Court, Respondent was charged with Theft, a Level 6 Felony.
3. On March 18, 2016, Respondent attended the initial hearing on the matter.
4. On June 08, 2016, Respondent was convicted of Theft, a Class A Misdemeanor.
5. As an employee of Del Real Automotive Group, Respondent stole approximately two thousand four hundred forty four dollars and ninety-nine cents (\$2,444.99) in cash from his employer.

6. Respondent failed to report his criminal proceedings to the Department.
7. Indiana Code §27-1-15.6-12(b) states that the Commissioner of the Indiana Department of Insurance, ("Commissioner"), may levy a civil penalty and/or permanently revoke an insurance producer's license for any of an enumerated list of factors.
8. Indiana Code §27-1-15.6-17(b) states not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction.
9. Indiana Code §27-1-15.6-12(b)(2)(A) states that violating an insurance law of Indiana or another state is also grounds for administrative action. Indiana Code §27-1-15.6-17(b) is an insurance law.
10. Indiana Code §27-1-15.6-12(b)(8), states that if a producer uses fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere it is grounds for administrative action.

CHARGES

COUNT I

11. Averments 1 through 10 are repeated as if fully incorporated by reference herein.
12. Respondent was convicted of Theft, a Class A Misdemeanor, for theft from an employer.
13. Respondent's conduct is subject to administrative action under Indiana Code § 27-1-15.6-12(b)(8).

COUNT II

14. Averments 1 through 13 are repeated as if fully incorporated by reference herein.

15. Respondent failed to notify the Department of his criminal proceedings within thirty (30) days of the initial hearing date.
16. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-17(b).
17. Respondent's conduct is subject to administrative action under Indiana Code § 27-1-15.6-12(b)(2)(A).
18. Indiana Code 27-1-15.6-12(f) states that in addition to denial, suspension, or revocation, the Commissioner may impose a civil penalty up to ten thousand dollars (\$10,000) for violation of Indiana Code 27-1-15.6-12.

WHEREFORE, the Enforcement Division of the Indiana Department of Insurance, by counsel, Cathleen Nine-Altevogt, requests that the Commissioner issue an order that states:

- (1) Respondent's resident producer's license is permanently revoked;
- (2) Respondent shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00);
- (3) Set this matter for hearing pursuant to Indiana Code 4-21.5;
- (4) All other relief necessary and proper upon the premise.

Respectfully submitted,

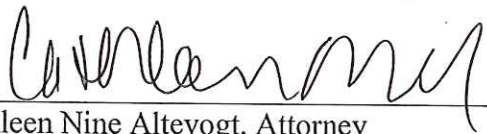


Cathleen Nine-Altevogt, Attorney #32706-49
Enforcement Division

Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, IN 46204-2787
Phone: (317) 234-5887
Facsimile: (317) 234-2103

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following Respondent by United States certified first class mail, postage prepaid, this 23rd day of 2016, 2016.



Cathleen Nine Altevogt, Attorney

Obear, Overholser, Huffer & Rider, LLC
C/O Makenzie L. Martin
102 S. Union St
PO Box 257
Delphi, IN 46923

Certified Mail Receipt: 91 7190 0005 2720 0062 7398