

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER: 15793-AD17-0104-005

IN THE MATTER OF:)

Jennifer Lynette White)
3827 Riverside Drive)
South Bend, IN 46628)

Applicant.)

FILED

MAY 12 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On March 30, 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 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. The refusal to issue Applicant's Indiana producer license is affirmed.
2. Applicant shall not reapply for licensure until she has produced confirmation that she has successfully completed the "Pre-Trial Diversion" program and obtained a dismissal of all pending theft charges against her.

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:

Jennifer Lynette White
3827 Riverside Drive
South Bend, IN 46628

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

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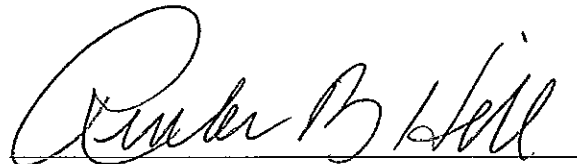
MAR 30 2017

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 15793-AD17-0104-005

IN THE MATTER OF:)
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INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Jennifer Lynette White)
3827 riverside Drive)
South Bend, IN 46628)
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Applicant.)

FILED
MAR 30 2017
STATE OF INDIANA
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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 in the matter of Jennifer Lynette White (“Applicant”). This matter came to be heard by the ALJ on February 16, 2017 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, 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 December 16, 2016, Applicant applied for her resident insurance producer license.
2. Applicant failed to disclose two (2) pending felony charges of theft on her application.
3. On April 26, 2014, Applicant and three (3) family members, one being her brother, entered a Finish Line at a Michigan City mall, where a Finish Line employee observed Finish Line merchandise inside a Reebok bag the group brought inside. Applicant and the group left Finish Line without making a purchase.
4. Applicant and the group also went to Old Navy, where Applicant was observed on store security cameras with other members of her group who were taking items off the shelf and placing them into a bag someone in the group brought inside. Applicant and the group left Old Navy without making a purchase.
5. Police observed the vehicle Applicant and the group came in, and found bags of clothing with security tags still on them. Among the bags police observed was the Reebok bag the Finish Line employee had noted.
6. The amount of merchandise taken from Finish Line totaled Three Hundred Twenty (\$320.00) Dollars.
7. The amount of merchandise taken from Old Navy totaled Three Hundred Forty (\$340.00) Dollars.
8. Applicant stated she was not aware of any bags in the vehicle the police searched.
9. At the hearing, Applicant denied that she took merchandise from Old Navy.

10. Applicant stated she saw her brother stealing merchandise and she tried to leave.
Applicant stated she left the mall with her aunt and did not go home in the same vehicle she came to the mall in.
11. While filling out the application, Applicant admitted she did not carefully read the questions because she was nervous, but “was not trying to hide something.”
12. Applicant stated she answered “no” to the application question “have you ever been convicted of a felony or are you currently charged with committing a felony” because she “misread ‘convicted’.”
13. On January 23, 2017, Applicant entered into a one (1) year pre-trial diversion (“PTD”) that required her to complete forty (40) hours of community service; Applicant may request a motion to dismiss hearing if the terms of her PTD are met. Applicant stated she completed the community service hours in February 2017.
14. It is understandable for a first time offender to be confused about the terms used in criminal proceedings especially when a “Pre-Trial Diversion” process is used to resolve an alleged criminal offense.
15. The Applicant failed to produce adequate confirmation that she had successfully completed the “Pre-Trial Diversion” program and actually obtained a discharge of the criminal charge filed against her.

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.

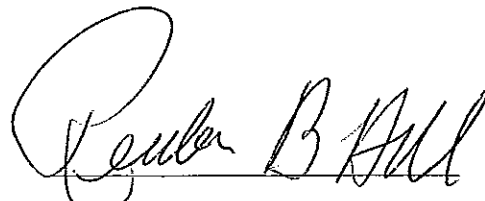
3. Indiana Code 27-1-15.6-12(b) states that the Commissioner may refuse to issue an insurance producer license, due to a number of factors.
4. Specifically, Indiana Code 27-1-15.6-12(b)(1) provides that the Commissioner may refuse to issue a license for “providing incorrect, misleading, incomplete, or materially untrue information in a license application”.
5. Applicant’s conduct in failing to disclose her pending felony theft charges demonstrates “providing incorrect, misleading, incomplete, or materially untrue information,” with facts in aggravation being she did not read the questions carefully.
6. Indiana Code 4-21.5-3-14© 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 her resident producer license and, therefore, bears the burden.
7. The Applicant’s failure to disclose the pending felony charges on her application, is sufficient grounds to deny the issuance of a Producer’s License.
8. Findings of Fact that can be adopted as a Conclusion of Law are incorporated herein as such.

RECOMMENDED ORDER

Now 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:

1. That the refusal to issue Applicant's resident insurance producer license be affirmed until Applicant has produced confirmation that she has successfully completed the "Pre-Trial Diversion" program and obtained a dismissal of all pending theft charges against her.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 30th day of March, 2017.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Jennifer Lynette White
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South Bend, IN 46628

Claire Szpara, Attorney
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311 W. Washington St., Suite 103
Indianapolis, IN 46204

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Application ID: 562732)

FILED

JAN 17 2017

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 Jennifer White (“Applicant”) of the following Administrative Order:

1. Applicant submitted an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on November 2, 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)(1) provides, that the Commissioner may refuse to issue an insurance producer license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
4. Following a review of materials which were submitted in the application, the Commissioner being fully advised, now hereby notifies Applicant that she has not fully met the requirements of licensure, as stated by Indiana Code §27-1-15.6-12(b)(1).

5. Applicant failed to disclose to the Department on her license application two pending charges of Felony Theft filed on April 26, 2014 in LaPorte County, Indiana.
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 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)(1), for failing to disclose on her application for licensure pending charges of Felony Theft filed on April 26, 2014 in LaPorte County, Indiana.

1-17-17
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

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