

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 16013-AD17-0228-024

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)

John Dye)
P.O. Box 722)
Mishawaka, Indiana 46546,)

FILED

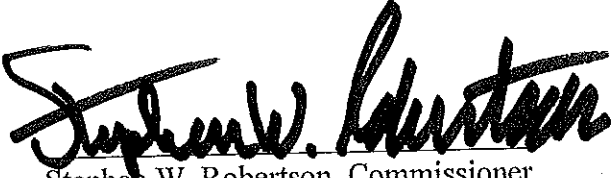
JUL 28 2017

STATE OF INDIANA
DEPT. OF INSURANCE

Applicant.

NOTICE OF FILING OF FINAL ORDER

The parties to this action are hereby notified that the Commissioner's Final Order is deemed filed as of this date. Pursuant to Ind. Code § 4-21.5-5-5, Applicant has the right to appeal this Final Order by filing a petition for judicial review in the appropriate court within thirty (30) days.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

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Applicant.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

On May 31, 2017, Administrative Law Judge Reuben B. Hill (the "ALJ") submitted Findings of Fact, Conclusions of Law, and Recommended Order for the above captioned matter. Applicant, John Dye ("Applicant"), filed an untimely objection to the Recommended Order, in writing, on June 22, 2017. Commissioner Stephen W. Robertson (the "Commissioner"), being fully advised, now issues the following Findings of Fact, Conclusions of Law, and Final Order.

FINDINGS OF FACT

1. On April 11, 2017, a hearing on the above captioned matter was held at the Department of Insurance ("Department") concerning the Applicant's insurance producer license application denial.
2. On May 31, 2017, the ALJ filed Findings of Fact, Conclusions of Law, and Recommended Order to be reviewed by the Commissioner.
3. The Recommended Order upheld the Department's denial of the Applicant's insurance producer license application.

4. On June 22, 2017, after more than eighteen (18) days from the filing of the Recommended Order, Applicant filed an untimely objection, by written letter, to the Recommended Order.

5. The Findings of Fact numbers 1 through 19 in the ALJ's Recommended Order are adopted in full and incorporated herein as Findings of Fact.

6. Conclusions of Law that are properly stated as Findings of Fact are hereby incorporated as such.

CONCLUSIONS OF LAW

1. The Commissioner adopts the ALJ's Conclusions of Law numbers 1 through 13.

2. Specifically, Ind. Code § 27-1-15.6-12(b)(1) provides that the Commissioner may deny an applicant licensure for providing incorrect, misleading, incomplete, or materially untrue information on an insurance application.

3. Specially, Ind. Code § 27-1-15.6-12(b)(6) provides that the Commissioner may deny an applicant licensure for having been convicted of a felony.

4. Specially, Ind. Code § 27-1-15.6-12(b)(8) provides that the Commissioner may deny an applicant licensure for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

5. Applicant answered "no" on his insurance producer license application to a question asking whether he had ever been convicted of a felony. Applicant has three felony convictions, which he failed to disclose on his license application; therefore, there are sufficient grounds to uphold the ALJ's recommendation.

6. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated as such.


FINAL ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Commissioner of Insurance now issues this Final Order AFFIRMING the ALJ's Recommended Order:

1. The refusal to issue the Applicant an Indiana insurance producer license is affirmed.
2. The Applicant cannot reapply for Indiana insurance producer licensure for a period of two (2) years from the date of issuance of this Final Order.

Under Indiana Code §4-21.5-5-5, Applicant 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 28 day of July 2017.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

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Cathleen Nine-Altevogt, Attorney
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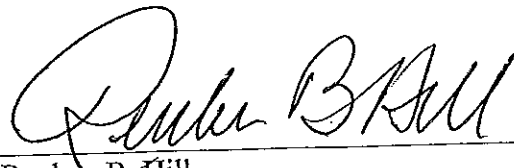
MAY 31 2017

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

IN THE MATTER OF:)

John Dye)
P.O. Box 722)
Mishawaka, Indiana 46546)

Applicant.)

FILED

MAY 31 2017

STATE OF INDIANA
DEPT. OF INSURANCE
CAUSE NO.: 16013-AD17-0228-024

**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 John Dye ("Applicant"). This matter came on to be heard by the ALJ on, April 11, 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, Cathleen Nine-Altevogt. Applicant appeared in person and without legal 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 March 6, 2017, the Department issued a Preliminary Administrative Order and Notice of License Denial regarding Applicant's Insurance Producer License Application.
2. Applicant answered "No" on his insurance producer license application to a question asking whether he had ever been convicted of a misdemeanor. (Exhibit 2)
3. Applicant also answered "No" to a question on his application asking whether he had ever been convicted of a felony. (Exhibit 2)
4. Applicant answered "Yes" to a question on his application asking whether he owed child support in arrearage. (Exhibit 2)
5. Applicant admitted that he was convicted of a criminal offense of Felony Battery On A Police Officer in 1992. (Transcript at page 20, lines 17-20)
6. Applicant admitted he was convicted of a Criminal Offense of Felony Residential Entry in 2000. (Transcript at page 21, lines 12-22)
7. Applicant admitted he was convicted of a Criminal Offense Of Theft and Habitual Offender in 2004. (Transcript at page 23, lines 2-14)
8. Applicant admitted that he was convicted of a Criminal Offense of Misdemeanor Resisting Law Enforcement in 2004. (Transcript at page 24, lines 20-12)
9. Applicant is current on his child support payments. (Transcript at page 19, line 25)
10. All of Applicant's convictions occurred in Elkhart County. (Transcript at page 24, lines 14-16)
11. Applicant stated he read the application questions asking whether he had been convicted of any misdemeanors or felonies. (Transcript at page 19, lines 4-11)

12. Applicant stated that he answered “yes” to the question about child support because “I thought that was really the only important question on there”. (Transcript at page 20, lines 9-10)
13. Applicant stated the misdemeanor and felony convictions “were not even on my radar, because I wasn’t doing nothing wrong, so I wasn’t thinking back twenty-five (25) years”. (Transcript at page 20, lines 14-16).
14. When specifically questioned about his convictions, Applicant contended for three out of the four convictions stating that, he had done nothing wrong. (Transcript at page 20, line 23; page 21, line 15; page 24, line 12)
15. Applicant argued that the system is “wrong” and should not focus on events that are fifteen (15) and twenty (20) years into somebody’s life”. (Transcript at page 36, lines 6-24)
16. Applicant describes himself as an Actor, Model, and Evangelist. (Transcript at page 13, lines 14-16)
17. Applicant contends that he focused on doing good in the world. “And that’s all I do is positive and good things”. (Transcript at page 13, lines 16-20)
18. Two (2) witnesses testified that Applicant had a positive influence in their lives and helped them with their spiritual growth.
19. Applicant admitted several exhibits including a biography written by Respondent and a picture of book covers showing the books he has written, including several spiritual books and a cookbook.

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 deny a license application due to a number of causes.
4. Specifically, Indiana Code 27-1-15.6-12(b)(1) provides that the Commissioner may deny an applicant for providing incorrect, misleading, incomplete, or materially untrue information in an insurance application.
5. Specifically, Indiana Code 27-1-15.6-12(b)(6) also provides that the Commissioner may deny an applicant for having been convicted of a felony.
6. Specifically, Indiana Code 27-1-15.6-12(b)(8) also provides that the Commissioner may deny a license for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
7. Applicant violated Indiana Code 27-1-15.6-12(b)(1) by his conduct in answering "no" to two questions on his license application about his criminal history.
8. Applicant violated Indiana Code 27-1-15.6-12(b)(6) by having three felony convictions.
9. Applicant violated Indiana Code 27-1-15.6-12(b)(8) by his resisting law enforcement misdemeanor conviction, which on its face demonstrates coercive or untrustworthy conduct.

10. 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 the Department issue his resident producer license and, therefore, bears the burden.
11. Applicant admits that he disregarded the questions on his application concerning his criminal history because they were not “important”, and Applicant takes little responsibility for his conviction.
12. Applicant failed to meet his burden to show that his license denial was unreasonable, therefore, license denial is warranted under Indiana Code 27-1-15.6-12(b)(1), Indiana Code 27-1-15.6-12(b)(6), and Indiana Code 27-1-15.6-12(b)(8).
13. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

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 Indiana producer license be affirmed. Should Applicant choose to reapply for licensure, he shall not be able to do so for a period of Two (2) years from the issuance of the Final Order in this matter.

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

Commissioner of Insurance this 31st day of May, 2017.

A handwritten signature in cursive script, reading "Reuben B. Hill". The signature is written in black ink and is positioned above a horizontal line.

Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

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John Dye)
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Application ID: 571696)

FILED

MAR 06 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 *et seq.* and Indiana Code §27-1-15.6-12, hereby gives notice to John Dye (“Applicant”) of the following Administrative Order:

1. Applicant submitted an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on January 18, 2017.
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, in part, 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. Indiana Code §27-1-15.6-12(b)(6) provides, in part, that the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.

5. Following a review of materials which were submitted in the 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(b)(1) and Indiana Code §27-1-15.6-12(b)(6), due to having failed to report on his application a felony conviction of Battery on a Police Officer on November 30, 1992; a felony conviction of Residential Entry on March 22, 2000; and a felony conviction of Theft and Habitual Criminal Offender on November 1, 2004. Applicant also failed to disclose a misdemeanor conviction of Resisting Law Enforcement on November 1, 2004.
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) and Indiana Code §27-1-15.6-12(b)(6), due to Applicant's failure to report multiple convictions on his application for licensure on January 18, 2017.

3-6-17
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

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