

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 16047-AD17-0301-026

IN THE MATTER OF:

William L. Fells
5686 Hall Rd
Plainfield, IN 46168

Applicant.

FILED

JUL 21 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On May 31, 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.

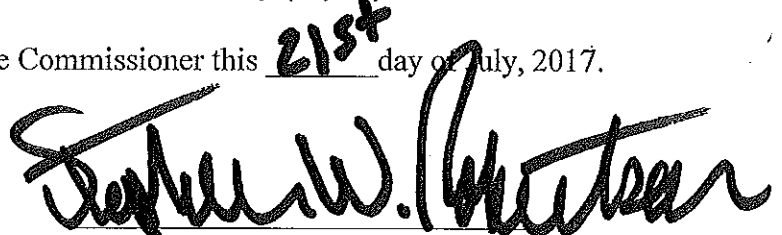
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The refusal to issue Applicant's resident insurance producer license is affirmed.
2. Applicant shall not re-apply for one (1) year.

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 21st day of July, 2017.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

William L. Fells
5686 Hall Rd
Plainfield, IN 46168

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

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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:)
)
William L. Fells)
5686 Hall Rd.)
Plainfield, Indiana 46168)

CAUSE NO.: 16047-AD17-0301-026

Applicant.)
)

FILED

MAY 31 2017

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

STATE OF INDIANA
DEPT. OF INSURANCE

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 William L. Fells ("Applicant"). This matter came on to be heard by the ALJ on , April 13, 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 February 6, 2017, Applicant applied for a resident producer license.
2. Applicant disclosed a misdemeanor fraud conviction from 2011.
3. The incident occurred while Applicant was working as a customer sales representative for Pitney Bowes, a general contractor for the U.S. Mint. As a customer sales representative, Applicant received calls from customers wanting to purchase gold coins over the phone, and customers would give Applicant their credit card information to complete the purchase.
4. On four (4) occasions, Applicant used the information from a caller to purchase a duplicate order for the same coin, and had the coin sent to himself. Applicant did not have consent from any of these customers to place the duplicate orders. Two (2) of the duplicate orders were cancelled before the duplicate coins were sent.
5. Applicant stated during the hearing that he pawned the gold coins for cash in order to pay bills.
6. Applicant was sentenced to probation for the conviction, and ordered to pay back Two Thousand Four Hundred Eighty-Seven and 90 cents (\$2,487.90) to the U.S. Mint.
7. Applicant introduced documents attesting to his financial trustworthiness. Applicant introduced the awards he received while employed at Author Solutions for his sales performance. Applicant stated he was a member of the President's Club, which consists of the Top Ten (10) percent of the entire sales force, for three (3) of the five (5) years he worked at Author Solutions.

8. Applicant introduced a letter of recommendation from his current employer at American Income Life.

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)(8) provides the Commissioner may refuse to issue an insurance producer license 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's Misdemeanor Fraud conviction is evidence of fraudulent and dishonest practices. Applicant's conduct of using customers' credit card information in order to purchase duplicate gold coins for himself without the customers' consent is evidence of untrustworthiness and financial irresponsibility in the conduct of business. Facts in aggravation include Applicant, as an insurance producer, will have access to consumers' sensitive information, similar to the incident in question, and will also be handling consumers' money.

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. Applicant is requesting that the Department issue his resident producer license and, therefore, bears the burden.
7. 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.
8. 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 resident insurance producer license be affirmed and Applicant shall not re-apply for licensure for one (1) year from the date 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.



Reuben B. Hill, Esq.
Administrative Law Judge

(See Distribution)

Distribution:

William L. Fells
5686 Hall Rd.
Plainfield, Indiana 46168

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 16047-AD17-0301-026

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
William L. Fells)
5686 Hall Rd)
Plainfield, IN 46168)
)
Application ID: 574188)

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 William Fells ("Applicant") of the following Administrative Order:

1. Applicant submitted an application for licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on February 6, 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)(8) provides, in part, that the Commissioner may refuse to issue an insurance producer license 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 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)(8), due to having a misdemeanor theft conviction in Marion County, Indiana on February 24, 2011.

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 Applicant's request for licensure is hereby DENIED pursuant to Indiana Code § 27-1-15.6-12(b)(8), due to Applicant's misdemeanor theft conviction on his application for licensure on February 6, 2017.

3-6-17
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

William L. Fells
5686 Hall Rd.
Plainfield, IN 46168

Melissa Higgins, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-8687, fax 317 234-2103