

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 16360-AD17-0726-078

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Elaine M Lefevre)
5106 Drawbridge Lane)
Garland, TX 75044)

FILED
JAN 19 2018
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On November 16, 2017, the Administrative Law Judge (“ALJ”), Rueben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served ALJ Hill’s Findings of Fact, Conclusions of Law, and Recommended Order and Notice of Filing Recommended Order on Respondent by mail.
2. The Department has complied with the notice requirements of Ind. Code § 4-21.5-3-17.
3. On November 21, 2017, the Department filed an objection with the Commissioner regarding the Administrative Law Judge’s Findings of Fact, Conclusions of Law and Recommended Order.
4. The ultimate authority shall issue a final order affirming, modifying, or dissolving the administrative law judge’s order under Ind. Code § 4-21.5-3-29.

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

FINDINGS OF FACT

1. The Administrative Law Judge's Findings of Fact paragraphs one (1) through seven (7) are hereby adopted.
2. The "Findings of Fact" section of the Recommended Order in paragraph eight (8) states, "In consideration of the length of time since the accident in 2000, the fact that there have not been any reports of misbehavior since, that Aegis Communications submitted the Applicant's 2008 application on her behalf, altogether serve as mitigating factors." The preparation of an application is the responsibility of the Applicant and the contents of the application are the responsibility of the Applicant. Therefore, the failure to disclose a felony conviction is not mitigated by another entity filling out the application.

CONCLUSIONS OF LAW

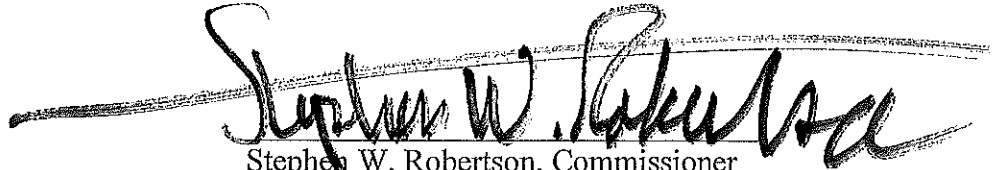
1. The Administrative Law Judge's Conclusions of Law paragraphs one (1) through eight (8) are hereby adopted.

FINAL ORDER

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. That the denial of Applicant's nonresident producer license be affirmed and Applicant shall not reapply for licensure for one (1) year from the date the Final Order is issued.

ALL OF WHICH IS ORDERED by the Commissioner this 19th day of January, 2018.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Elaine M Lefevre
5106 Drawbridge Lane
Garland, TX 75044

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

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NOV 21 2017

STATE OF INDIANA
DEPT. OF INSURANCE

OBJECTION TO RECOMMENDED ORDER

Comes now the Enforcement Division of the Indiana Department of Insurance (“Department”) by counsel, Claire Szpara, to object to the Administrative Law Judge’s Findings of Fact, Conclusions of Law and Recommended Order (“Recommended Order”) filed on November 16, 2017, and in support of this objection shows the Commissioner the following:

1. On September 28, 2017, a hearing was held at the Department to determine whether the Preliminary Administrative Order and Notice of License Denial of Elaine Lefevre’s (“Applicant”) insurance producer license was reasonable.
2. The Administrative Law Judge has filed his Findings of Fact, Conclusions of Law, and Recommended Order (“Recommended Order”) in this matter.
3. The “Findings of Fact” section of the Recommended Order in paragraph eight (8) states, “In consideration of the length of time since the accident in 2000, the fact that there have not been any reports of misbehavior since, that Aegis Communications

submitted the Applicant's 2008 application on her behalf, altogether serve as mitigating factors on behalf of the Applicant."

4. Indiana Code § 27-1-15.6-12(b)(1) allows for a license denial by the Commissioner for providing incorrect, misleading, incomplete or materially untrue information on a license application.

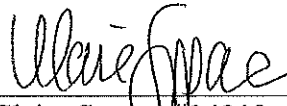
5. Applicant's 2008 application failed to reflect her felony conviction. Applicant is ultimately responsible for the answers on her application. To the extent the Recommended Order considers Aegis Communications submitting Applicant's 2008 application on her behalf a mitigating factor, the Department objects.

6. The Recommended Order states, pursuant to Indiana Code § 4-21.5-3-14(c), the person requesting an agency take action has the burden of persuasion and the burden of going forward. The Department maintains that Applicant did not meet her burden during the hearing and the Commissioner's decision to deny Applicant's license is reasonable.

7. This Objection is being filed with the Commissioner within eighteen (18) days from the date of the filing of the Recommended Order.

WHEREFORE, the Department's Enforcement Division by its counsel, initiates this objection to the Recommended Order proposed by the Administrative Law Judge and respectfully requests that the Commissioner adopt Findings of Fact and Conclusions of Law consistent with these objections.

Respectfully submitted,



Claire Szpara #34219-64
Attorney, Department of Insurance

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Objections has been served upon the Applicant by mailing a copy of the same by First Class U.S. Mail, postage prepaid, this _____ day of November, 2017.

Elaine Lefevre
5106 Drawbridge Lane
Garland, TX 75044



Claire Szpara
Attorney No. 34219-64

Distribution:

Elaine Lefevre
5106 Drawbridge Lane
Garland, TX 75044

Claire Szpara, Attorney
INDIANA DEPARTMENT OF INSURANCE
311 W. Washington St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
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BEFORE THE INDIANA
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CAUSE NUMBER: 16360-AD17-0726-078

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STATE OF INDIANA
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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.

DATED: Nov 16, 2017



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
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APPLICATION OF:)

CAUSE NO.: 16360-AD17-0726-078

Elaine M. Lefevre)
5106 Drawbridge Lane)
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NOV 16 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 concerning the matter of Elaine Lefevre (“Applicant”). This matter came on to be heard by the ALJ on September 28, 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 by telephone 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. Applicant applied for a Non- Resident Producer License on July 11, 2017. Applicant had been previously licensed in 2008, and her License expired in 2015.
2. Applicant disclosed a 2001 Felony Intoxicated Assault Conviction on her 2017 application that was not disclosed on her initial 2008 Application for Licensure.
3. Applicant stated she did not submit the 2008 application to Indiana. Applicant's license application was submitted on her behalf by her employer, Aegis Communications. Applicant stated she disclosed this felony conviction to Aegis Communications.
4. The Felony Intoxicated Assault Conviction was the result of a car accident. Applicant testified that she was not driving, but a gentleman was driving her car when it hit another car. Applicant stated the gentleman fled the scene. Applicant was left injured. Applicant pled guilty to the Felony Intoxicated Assault Conviction.
5. Applicant operated as a Licensed Non- Resident Producer from 2008 until the present without acquiring any reportable incidents of misconduct.
6. Applicant has not been arrested for any criminal offense since April 14, 2000.
7. The officer investigating the 2000 automobile accident that gave rise to the criminal charge against the Applicant indicated that, "The drivers of both vehicles were not intoxicated by means of an alcoholic beverage or other mind- altering substance and that the injuries sustained by the drivers of the said motor vehicles did not appear to be life threatening". (See Exhibit 5 Paragraph 2)
8. In consideration of the length of time since the accident in 2000, the fact that there have not been any reports of misbehavior since, that Aegis Communications submitted the

Applicant's 2008 application on her behalf, altogether serve as mitigating factors on behalf of the Applicant.

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. Indiana Code 27-1-15.6-12(b)(6) specifically allows the Commissioner to deny an Insurance Producer's License for having been convicted of a felony.
5. Indiana Code 27-1-15.6-12(b)(1) specifically allows the Commissioner to deny an Insurance Producer's License for providing incorrect, misleading, incomplete or materially untrue information on a License Application.
6. Applicant's Felony Intoxicated Assault Conviction and the fact the conviction was not disclosed on the Initial Application for Licensure is evidence of violating Indiana Code 27-1-15.6-12(b)(6) and 27-1-15.6-12(b)(1).
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 the Department issue her Non- Residential 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.

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 request for the renewal of the Applicant's Non- Resident Producer's License should be **GRANTED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 16th day of November, 2017.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Elaine Lefevre
5106 Drawbridge Lane
Garland, Texas 75044

Claire Szpara, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204

STATE OF INDIANA)
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BEFORE THE INDIANA
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Elaine M Lefevre)
5106 Drawbridge Lane)
Garland, TX 75044)

FILED

OCT 20 2017

**STATE OF INDIANA
DEPT. OF INSURANCE**

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

Administrative Law Judge (“ALJ”) Reuben Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Elaine Lefevre (“Applicant”). This matter came to be heard by the ALJ on September 28, 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 by phone 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. Applicant applied for a nonresident producer license on July 11, 2017. Applicant had been previously licensed in 2008, and her license expired in 2015.
2. Applicant disclosed a 2001 Felony Intoxicated Assault conviction on her 2017 application that was not disclosed on her initial 2008 application for licensure.

3. Applicant stated she did not submit the 2008 application to Indiana; her license application was submitted on her behalf by her employer, Aegis Communications. Applicant stated she disclosed this felony conviction to Aegis Communications.

4. The felony intoxicated assault conviction was the result of a car accident. Applicant testified that she was not driving, but a gentleman was driving her car when it hit another car. Applicant stated the gentleman fled the scene; Applicant was left injured. Applicant pled guilty to the felony intoxicated assault conviction.

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)(6) allows the Commissioner to deny an insurance producer's license for having been convicted of a felony.

5. Specifically, Indiana Code § 27-1-15.6-12(b)(1) allows the Commissioner to deny an insurance producer's license for providing incorrect, misleading, incomplete or materially untrue information on a license application.

6. Applicant's felony intoxicated assault conviction and the fact the conviction was not disclosed on the initial application for licensure is evidence of violating Indiana Codes §§ 27-1-15.6-12(b)(6) and 27-1-15.6-12(b)(1).

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; here, Applicant is requesting that the Department issue her nonresident 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 the Commissioner's decision to deny her nonresident license was unreasonable.

9. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With 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 denial of Applicant's nonresident producer license be affirmed and Applicant shall not reapply for licensure for one (1) year from the date the Final Order is issued.

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

Reuben Hill
Administrative Law Judge

Distribution:

Elaine Lefevre
5106 Drawbridge Lane
Garland, TX 75044

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

STATE OF INDIANA)
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BEFORE THE INDIANA
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Elaine M Lefevre)
5106 Drawbridge Lane)
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)
Applicant)

FILED

SEP 27 2017

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF NEW HEARING

Notice is hereby given, pursuant to Indiana Code § 4-21.5-3 *et seq.*, that an evidentiary hearing will be held telephonically on **September 28, 2017, at 10:00 A.M. Eastern Time**, at 311 West Washington Street, Suite 103, Indianapolis, Indiana, to determine whether to grant the Applicant's request for a nonresident producer's license.

The hearing will be conducted in accordance with the provisions of the Administrative Orders and Procedures Act, codified at Indiana Code § 4-21.5-3 *et seq.* The Commissioner's authority to deny an insurance producer's license application is contained in Indiana Code § 27-1-15.6-12(b).

The issues to be resolved at the hearing are those described in the Preliminary Administrative Order and Notice of License Denial filed on August 3, 2017.

The Indiana Department of Insurance asserts that Applicant has not fully met the requirements of licensure under Indiana Code § 27-1-15.6-12, due to having a felony conviction of Intoxicated Assault – Serious Bodily Injury which is in violation of Indiana Code § 27-1-15.6-

12(b)(6), and failing to disclose the felony conviction on her initial application for licensure, which is in violation of Indiana Code § 27-1-15.6-12(b)(1).

In accordance with Indiana Code § 27-1-15.6-34, the Administrative Law Judge in this matter is:

Reuben B. Hill
Indiana Department of Insurance
311 West Washington Street - Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317/232-3520

The Department of Insurance will be represented by its counsel, Claire Szpara, who can be reached at:

Indiana Department of Insurance
311 West Washington Street - Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317-232-5312

A party who fails to attend or participate in a pre-hearing conference, hearing or other later stage of the proceeding, may be held in default or have a proceeding dismissed under Indiana Code § 4-21.5-3-24.

Dated: 9-22-17

Reuben B. Hill
Administrative Law Judge
Indiana Department of Insurance

This Notice has been sent to:

Elaine M Lefevre
5106 Drawbridge Lane
Garland, TX 75044

Taylor Peycha, Insurance Investigator
Indiana Department of Insurance
311 West Washington St., Suite 103
Indianapolis, IN 46204-2787

Distribution to:

Elaine M. Lefevre
5106 Drawbridge Ln.
Garland, TX 75044

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

STATE OF INDIANA)
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BEFORE THE INDIANA
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FILED

AUG 29 2017

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF HEARING

Notice is hereby given, pursuant to Indiana Code § 4-21.5-3 *et seq.*, that an evidentiary hearing will be held telephonically on September 20, 2017, at 9:00 (A.M.) P.M. Eastern Time, at 311 West Washington Street, Suite 103, Indianapolis, Indiana, to determine whether to grant the Applicant's request for a nonresident producer's license.

The hearing will be conducted in accordance with the provisions of the Administrative Orders and Procedures Act, codified at Indiana Code § 4-21.5-3 *et seq.* The Commissioner's authority to deny an insurance producer's license application is contained in Indiana Code § 27-1-15.6-12(b).

The issues to be resolved at the hearing are those described in the Preliminary Administrative Order and Notice of License Denial filed on August 3, 2017.

The Indiana Department of Insurance asserts that Applicant has not fully met the requirements of licensure under Indiana Code § 27-1-15.6-12, due to having a felony conviction of Intoxicated Assault – Serious Bodily Injury which is in violation of Indiana Code § 27-1-15.6-

12(b)(6), and failing to disclose the felony conviction on her initial application for licensure, which is in violation of Indiana Code § 27-1-15.6-12(b)(1).

In accordance with Indiana Code § 27-1-15.6-34, the Administrative Law Judge in this matter is:

Reuben B. Hill
Indiana Department of Insurance
311 West Washington Street - Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317/232-3520

The Department of Insurance will be represented by its counsel, Claire Szpara, who can be reached at:

Indiana Department of Insurance
311 West Washington Street - Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317-232-5312

A party who fails to attend or participate in a pre-hearing conference, hearing or other later stage of the proceeding, may be held in default or have a proceeding dismissed under Indiana Code § 4-21.5-3-24.

Dated: 29 Aug 2017

Reuben B Hill
Administrative Law Judge
Indiana Department of Insurance

This Notice has been sent to:

Elaine M Lefevre
5106 Drawbridge Lane
Garland, TX 75044

Taylor Peycha, Insurance Investigator
Indiana Department of Insurance
311 West Washington St., Suite 103
Indianapolis, IN 46204-2787

STATE OF INDIANA)
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AUG 03 2017

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

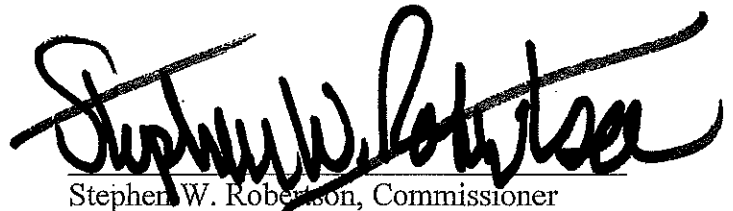
The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to Elaine M. Lefevre ("Applicant") of the following Administrative Order:

1. Applicant filed an application for nonresident licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on October 21, 2008, which was approved.
2. Applicant's nonresident license expired on June 30, 2015.
3. Applicant filed an application to reactive her nonresident licensure with the Commissioner on July 11, 2017.
4. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-8 and Indiana Code § 27-1-15.6-12.
5. Indiana Code § 27-1-15.6-12(b)(6) provides that the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.

6. 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.
7. Following a review of materials submitted by Applicant in support of their 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)(6) due her January 11, 2001 Texas conviction of Intoxicated Assault – Serious Bodily Injury, a Third Degree Felony. Furthermore, Applicant failed to disclose the conviction on her October 21, 2008 application for licensure, in violation of Indiana Code § 27-1-15.6-12(b)(1).
8. 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 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 Codes § 27-1-15.6-12(b)(6) and 27-1-15.6-12(b)(1) for having been convicted of a felony, and for failing to disclose it on a license application.

August 3, 2017
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance