

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 16014-AG17-0223-056

IN THE MATTER OF:)

Matthew R. Buchanan)
1127 Gail Court #44)
Jeffersonville, IN 47130)

Applicant.)

FILED

OCT 23 2017

STATE OF INDIANA
DEPT. OF INSURANCE

AMENDED FINAL ORDER

On August 12, 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 Applicant 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 a timely objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order; however, the Applicant filed an untimely objection more than eighteen (18) days after the Recommended Order was issued.

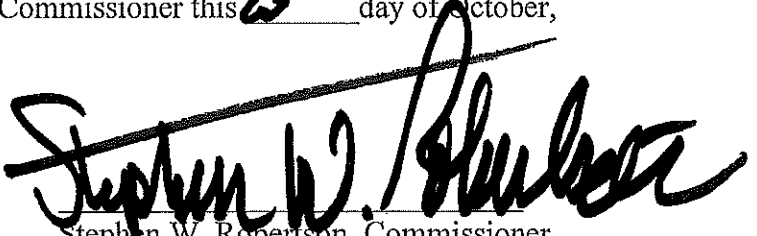
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Amended Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The refusal to issue Respondent's bail agent license is affirmed and Respondent shall not re-apply for licensure 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 23rd day of October, 2017.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Matthew Buchanan
1127 Gail Court #44
Jeffersonville, IN 47130

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE
CAUSE NUMBER: 16014-AG17-0223-056

IN THE MATTER OF:)

Matthew R. Buchanan)
1127 Gail Court #44)
Jeffersonville, IN 47130)

Applicant.)

FILED

OCT 20 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 12, 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 Applicant 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 Respondent's bail agent license is affirmed and Respondent shall not re-apply for licensure 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 20th day of October, 2017.

A handwritten signature in black ink, appearing to read "Stephen W. Robertson", written in a cursive style.

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Matthew Buchanan
1127 Gail Court #44
Jeffersonville, IN 47130

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
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 16014-AG17-0223-056


IN THE MATTER OF:)
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Matthew R. Buchanan)
1127 Gail Court #44)
Jeffersonville, IN 47130)
)
Applicant.)

**APPLICANT'S OBJECTION TO ENTRY OF THE RECOMMENDED ORDER OF
THE ADMINISTRATIVE LAW JUDGE**

Comes the Applicant, Matthew R. Buchanan, by Counsel, and objects to the entry of the Recommended Order of Administrative Law Judge, Reuben B. Hill, and in support of the objection states:

1. The Notice of filing of Recommended Order and Findings of Fact, Conclusions of Law and Recommended Order of the Administrative Law Judge were entered August 12, 2017, were post-marked August 17, 2017 and were received by the Applicant by United States first-class mail on August 21, 2017;
2. The Administrative Law Judge's Conclusion at paragraph four (4) that the "Applicant is not of good moral character" is not supported by the evidence;
3. The standard for disqualification of an Applicant for lack of "good moral character" IC 27-10-3-3(a)(1) is unconstitutionally vague and unenforceable; and
4. The Administrative Law Judge failed to adequately consider and/or give weight to the facts in mitigation following the Applicant's criminal conviction.

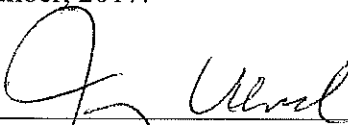
WHEREFORE, Applicant Matthew R. Buchanan moves the Commission to deny the Recommended Order and to approve the Application of Matthew R. Buchanan for a bail agent license.



JERRY L. ULRICH
ULRICH & VIDRA, LLC
115 E. Spring Street
Suite 100, Elsby Building
New Albany, IN 47150
(812) 945-2800
Indiana Supreme Court #924-22
Counsel for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Objection to Entry of Recommended Order of the Administrative Law Judge was served on the Indiana Department of Insurance at 311 W. Washington Street, Suite 103, Indianapolis, Indiana 46204 and on Counsel for the Commissioner of Indiana Department of Insurance, Claire Szpara, Indiana Department of Insurance, 311 W. Washington Street, Suite 103, Indianapolis, Indiana 46204, both by certified mail with postage pre-paid this 5 day of September, 2017.



JERRY L. ULRICH

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 16014-AG17-0223-056

IN THE MATTER OF:

Matthew R. Buchanan
1127 Gail Court #44
Jeffersonville, Indiana 47130

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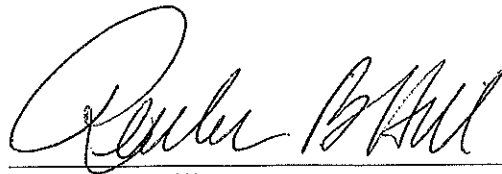
STATE OF INDIANA
DEPT. OF INSURANCE)

Applicant.

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

FILED

AUG 12 2017

IN THE MATTER OF:)
)
Matthew R. Buchanan)
1127 Gail Court #44)
Jeffersonville, Indiana 47130)
)
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)
)
Applicant..)

**STATE OF INDIANA
DEPT. OF INSURANCE**

CAUSE NO.: 16014-AG17-0223-056

**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 Matthew Buchanan (“Applicant”). This matter came on to be heard by the ALJ on, June 21, 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 7, 2017, Applicant applied for a bail agent license.
2. Applicant disclosed a misdemeanor assault family member conviction from 2007.
3. The incident took place in Texas. Applicant stated he and his girlfriend had been drinking and got into an argument, which led to him, biting, kicking, and choking his girlfriend.
4. Applicant also stated he had a misdemeanor criminal mischief conviction from 2006, which also involved consumption of alcohol. Applicant threw a beer bottle through an employer's door.
5. Jason Rogers testified on behalf of Applicant. Mr. Rogers stated he has known Applicant a little over nine (9) years and has known him to be kind and a great friend.
6. Applicant introduced one (1) exhibit, his pharmacy tech in training license.

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 27-10-3-3(a)(1) requires the application for license to serve as a bail agent affirmatively show that applicant is at least eighteen (18) years of age and of good moral character.
4. Applicant's misdemeanor assault family member conviction is evidence that Applicant is not of good moral character. Facts in mitigation include length of time since conviction and lack of subsequent criminal history.
5. 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 bail agent license and, therefore, bears the burden.
6. Pursuant to Indiana Code 27-1-15.6-12(d), the hearing was held to determine the reasonableness of the Commissioner's decision. Respondent failed to prove that the Commissioner's decision to refuse to issue his bail agent license was unreasonable.
7. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

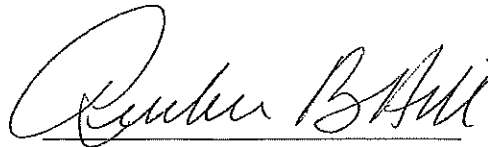
RECOMMENDED ORDER

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 Respondent's bail agent license be affirmed and Respondent shall not re-apply for licensure for one year (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 12th day of August, 2017.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Matthew Buchanan
1127 Gail Court #44
Jeffersonville, Indiana 47130

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.: 16014-AG17-0223-056

IN THE MATTER OF:)
)
INDIANA BAIL AGENT LICENSE)
APPLICATION OF:)
)
Matthew R. Buchanan)
1127 Gail Court #44)
Jeffersonville, IN 47130)

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 Act, Indiana Code § 4-21.5-1-1, *et seq.* and Indiana Code § 27-10-3-8, hereby gives notice to Matthew R. Buchanan (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for a Bail Agent license with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on February 7, 2017.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-10-3-1 and Indiana Code § 27-10-3-3.
3. A review of materials submitted by Applicant in support of his application reveals a misdemeanor criminal conviction of Assault-Family Member on August 9, 2007 in the State of Texas.
4. The Commissioner, being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure as stated by Indiana Code § 27-10-3-3 due to his

failure to show that he is of good moral character and because his participation in bail bond business would be detrimental to the public interest.

5. Indiana Code § 27-10-3-10 provides, in part, that the applicant for license as a bail agent whose application has been denied may appeal the denial to the circuit court of the county from which the bail agent applied for the license.
6. Indiana Code § 27-10-3-1(e) provides that the failure of the applicant to secure approval of the Commissioner shall not preclude the applicant from applying as many times as the applicant desires. However, an applicant's application may not be considered by the Commissioner within one (1) year subsequent to the date upon which the Commissioner denied the applicant's last application.

IT IS THEREFORE ORDERED that Applicant's request for licensure is hereby DENIED pursuant to Indiana Code § 27-10-3-3.

3-6-17
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Matthew R. Buchanan
1127 Gail Court #44
Jeffersonville, IN 47130

Melissa Higgins
Sr. Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
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317 232-5063, fax 317 234-2103