

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 16216-AG17-0511-112

IN THE MATTER OF: )  
 )  
INSURANCE PRODUCER LICENSE )  
APPLICATION OF: )  
 )  
Samantha Lorraine Clark )  
3741 N. 400 E )  
Montpelier, IN 47369 )  
 )  
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 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 resident insurance producer license is affirmed and Applicant 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 20<sup>th</sup> day of October, 2017.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Samantha Clark  
3741 N 400 East  
Montpelier, IN 47369

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

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**FILED**  
AUG 12 2017  
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.



Reuben B. Hill  
Administrative Law Judge

STATE OF INDIANA )  
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**FILED**

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

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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 Samantha Clark (“Applicant”). This matter came on to be heard by the ALJ on, July 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 April 19, 2017, Applicant applied for a resident producer license.
2. Applicant disclosed a 2008 Class D Felony Operating While Intoxicated conviction. She also pled guilty to possession of marijuana, a class A misdemeanor.
3. Applicant's driver's license was suspended for one (1) year.
4. Applicant also disclosed a 2016 Class A Misdemeanor Carrying a Handgun Without a License conviction. Applicant stated the gun was her husband's and was in the car she was driving.
5. Regarding the 2016 incident, Applicant stated at the hearing that she called police to help her because she was emotional and experiencing rational and irrational thoughts. Applicant is taking medication and seeking therapy for childhood PTSD and borderline personality disorder.
6. Applicant stated during the hearing that she has had past substance abuse issues.
7. Applicant submitted two (2) letters of recommendation from employers: one (1) from Floyd Mason, sales and marketing manager of Advanced Commercial Roofing, and one (1) from Mark Newbauer, license broker life, accident and health at Tax Free Retirement Solutions.

### **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) provides the Commissioner may refuse to issue an Insurance Producer License for having been convicted of a felony.
5. Applicant's Class D Felony Operating While Intoxicated conviction is evidence of being convicted of a felony. Facts in aggravation include Applicant's recent criminal conviction.
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 her 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 the Commissioner's decision to deny her Resident 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 12<sup>th</sup> day of August, 2017.



Reuben B. Hill, Esq.  
Administrative Law Judge

Distribution:

Samantha Clark  
3741 N. 400 East  
Montpelier, Indiana 47369

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

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Applicant. )

**FILED**

AUG 09 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 Samantha Clark (“Applicant”). This matter came to be heard by the ALJ on July 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 April 19, 2017, Applicant applied for a resident producer license.
2. Applicant disclosed a 2008 Class D Felony Operating While Intoxicated conviction. She also pled guilty to possession of marijuana, a class A misdemeanor.
3. Applicant’s driver’s license was suspended for one (1) year.



4. Applicant also disclosed a 2016 Class A Misdemeanor Carrying a Handgun Without a License conviction. Applicant stated the gun was her husband's and was in the car she was driving.

5. Regarding the 2016 incident, Applicant stated at the hearing that she called police to help her because she was emotional and experiencing rational and irrational thoughts. Applicant is taking medication and seeking therapy for childhood PTSD and borderline personality disorder.

6. Applicant stated during the hearing that she has had past substance abuse issues.

7. Applicant submitted two (2) letters of recommendation from employers; one (1) from Floyd Mason, sales and marketing manager of Advanced Commercial Roofing, and one (1) from Mark Newbauer, license broker life, accident and health at Tax Free Retirement Solutions.

#### **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) provides the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.

5. Applicant's Class D Felony Operating While Intoxicated conviction is evidence of being convicted of a felony. Facts in aggravation include Applicant's recent criminal conviction.

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; here, Applicant is requesting that the Department issue her 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 the Commissioner's decision to deny her resident 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**

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 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 this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Reuben Hill  
Administrative Law Judge

Distribution:

Samantha Clark  
3741 N 400 East  
Montpelier, IN 47369

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

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BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

Cause Number: 16216-AG17-0511-112

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Samantha Lorraine Clark )  
3741 N. 400 E )  
Montpelier, IN 47369 )  
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Applicant. )  
 )  
Type of Agency Action: Enforcement )  
 )  
Application ID: 584628 )

**FILED**

MAY 12 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 §27-1-28-18, hereby gives notice to Samantha Lorraine Clark (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for resident producer’s licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on April 19, 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. Ind. Code § 27-1-15.6-12(b)(6) provides that the Commissioner may refuse to issue or renew an insurance producer license due to Applicant having been convicted of a felony.
4. Following a review of materials submitted by Applicant in support of her 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), based upon her December 11, 2008 Class D Felony Driving Under the Influence conviction.

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 the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §27-1-15.6-12(b)(6), due to having a Class D Felony Driving Under the Influence conviction.

5-12-17  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

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