

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 16459-AD17-0918-092

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
Amanda Wagers)
189 East Washington Street)
Apartment 2)
Morgantown, IN 46160)
)
Applicant.)

FILED
FEB 09 2018
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On December 13, 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 on Respondent 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 denial of Applicant's resident producer license is affirmed and Applicant shall not reapply 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 9th day of February, 2018.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Amanda Wagers
189 E Washington Street Apt 2
Morgantown, IN 46160

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

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**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 Amanda Wagers (“Applicant”). This matter came to be heard by the ALJ on October 26, 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, 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. Applicant applied for her resident producer license on September 6, 2017.
2. Applicant disclosed a 2007 Class A Misdemeanor Domestic Battery conviction.

3. According to the Probable Cause Affidavit, police responded to a domestic disturbance between Applicant and her ex-husband. Applicant's ex-husband told police Applicant hit him on the head. A no-contact protective order was in place at the time of this incident. Applicant came to her ex-husband's father's residence, entered without invitation, and began punching her ex-husband on the forehead. The ex-husband's father witnessed this dispute. Police came to Applicant's house, where Applicant stated she never went to her ex-husband's residence and did not know why the police came to her (Department's Exhibit 3).

4. Applicant stated the facts in the Probable Cause Affidavit were untrue. She stated she and her ex-husband met earlier the day of the incident at a playground for him to visit with their children. Her ex-husband took their son home with him and Applicant was supposed to come pick him up later. She stated she called the ex-husband before she stopped over to let him know she was picking up their son. She testified that after she entered, her ex-husband jumped out of bed and grabbed and shoved her. She took their son and left.

5. Applicant stated she pled guilty to the domestic battery charge because she shoved and bit her ex-husband on the arm.

6. Applicant stated she completed one (1) year of probation, took six (6) months of domestic violence classes, and did one-on-one therapy counseling for a year and a half.

7. Applicant submitted the following exhibits at hearing: a letter of recommendation from Lori Weiss, Applicant's direct supervisor at WellFund; an Indiana home health aide license; an Indiana educator's license; an IRS tax professional preparer PTIN certificate; a June WellFund top performer award; a May WellFund top performer award.

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) allows the Commissioner to deny an insurance producer's 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 Class A Misdemeanor Domestic Battery conviction is evidence of violating Indiana Code § 27-1-15.6-12(b)(8).
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 denial of Applicant's resident 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:

Amanda Wagers
189 E Washington Street Apt 2
Morgantown, IN 46160

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

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FILED

OCT 03 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 on October 26 2017, at 11:00 (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 resident 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 September 22, 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 convictions of Class A Misdemeanor Domestic Battery which is in violation of Indiana Code § 27-1-15.6-12(b)(8).

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: 10-3-17

Reuben B Hill
Administrative Law Judge
Indiana Department of Insurance

This Notice has been sent to:

Amanda Wagers
189 East Washington Street
Apartment 2
Morgantown, IN 46160

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

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Applicant.)
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Type of Agency Action: Enforcement)
)
Application ID: 606256)

FILED

SEP 22 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 Amanda Wagers (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for resident licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on September 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 that the Commissioner may refuse to issue or renew 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 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)(8) due to her October 17, 2007 conviction of Class A Misdemeanor Domestic Battery.
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 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) for having been convicted of Class A Misdemeanor Domestic Battery.

9/22/2017
Date Signed

Stephen W. Robertson
Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution to:

Amanda Wagers
189 East Washington Street
Apartment 2
Morgantown, IN 46160

Taylor Peycha, Insurance Investigator
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