

) SS:

**CAUSE NO.: 16816-AD18-0102-002**

**IN THE MATTER OF:**

**Michael A. Johnson**  
110 Greg Circle  
Bellevue, NE 68005

**Applicant.**

**Type of Agency Action: Enforcement**

Application ID: 624338

**FILED**

JUN 28 2010

STATE OF INDIANA  
DEPT. OF INSURANCE

## FINAL ORDER

On May 16, 2018, 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 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.

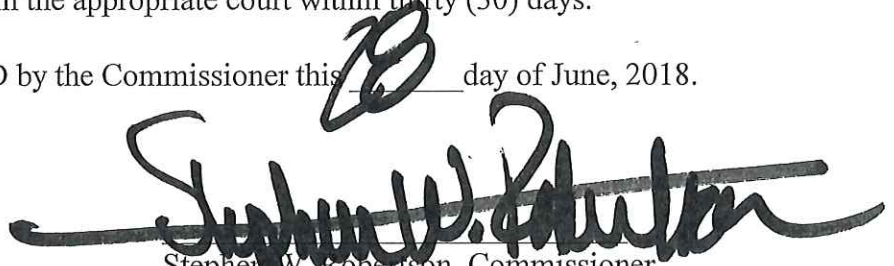
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Applicant's application for an Indiana non-resident independent adjuster license is  
DENIED.

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 28 day of June, 2018.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Michael A. Johnson  
110 Greg Circle  
Bellevue, NE 68005

Erica Dobbs, 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: 16816-AD18-0102-002

IN THE MATTER OF: )

INSURANCE PRODUCER LICENSE )  
APPLICATION OF: )

Michael A. Johnson )  
110 Greg Circle )  
Bellevue, NE 68005 )

Applicant. )

Type of Agency Action: Enforcement )

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**FILED**

MAY 16 2018

STATE OF INDIANA  
DEPT. OF INSURANCE

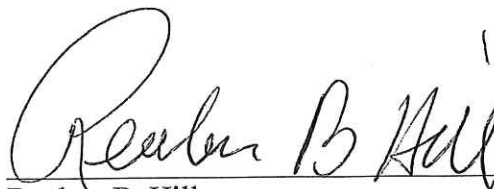
**NOTICE OF FILING OF RECOMMENDED ORDER**

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, the Parties must object to the  
order in a writing that: 1) Identifies the basis for the 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: 16 May 2018

:



Reuben B. Hill  
Administrative Law Judge

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF MARION     )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

IN THE MATTER OF:                     )  
  )  
INSURANCE PRODUCER LICENSE        )  
APPLICATION OF:                        )  
  )  
Michael A. Johnson                     )  
110 Greg Circle                        )  
Bellevue, NE 68005                    )  
  )  
Applicant.                                )  
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Type of Agency Action: Enforcement   )  
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Application ID: 624338                 )

CAUSE NO.: 16816-AD18-0102-002

**FILED**

MAY 16 2018

**STATE OF INDIANA  
DEPT. OF INSURANCE**

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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 Michael A. Johnson ("Applicant"). This matter came on to be heard by the ALJ on March 28, 2018 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, Erica J. Dobbs. 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 for a Non Resident Independent Adjuster License on December 14, 2017.
2. Under Indiana law, and Independent Adjuster is a person that is hired by an insurer to investigate, negotiate or settle property, casualty, or worker's compensation claims. (Indiana Code 27-1-28-6). It necessarily follows that Independent Adjusters frequently come into contact with insurance consumers at their homes and places of business.
3. Applicant disclosed a prior misdemeanor conviction for Domestic Assault in the 3<sup>rd</sup> Degree out of Nebraska from August 18, 2008.
4. This conviction was the result of a plea agreement, wherein Applicant pleaded guilty to Misdemeanor Domestic Assault, reduced from the originally filed charge of Assault by Strangulation, a Class IIIA Felony. (Department's Exhibit 2)
5. Applicant was then sentenced pursuant to the plea agreement to Two (2) years of probation. As terms of his probation, Applicant was required to complete a Batterer's Intervention Program and pay One Thousand Seventy-Four Dollars (\$1,074.00) in restitution to the victim for the cost of counseling she required after the assault. (Department's Exhibit 3)
6. Applicant testified that the victim was his live-in girlfriend and the assault was committed when he attempted to physically prevent her from leaving their home.
7. Applicant admitted Three (3) exhibits at the hearing. Applicant's Exhibits A-B are court documents showing his probation was terminated early and all financial obligations

related to the case were fulfilled. Applicant's Exhibit C is a character reference letter from Mr. Mike Fanoele. Mr. Fanoele also testified on Applicant's behalf.

8. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

### **CONCLUSIONS OF LAW**

1. The Commissioner of Insurance has the 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 27-1-28-18(b) states that the Commissioner may refuse to issue an Independent Adjuster License, due to a number of factors.
4. Specifically, Indiana Code 27-1-28-18(b)(8) allows the Commissioner to deny an Independent Adjuster'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 argued that the comma before "in the conduct of business in Indiana or elsewhere" in Indiana Code 27-1-28-18(b)(8) applies the phrase to all items in the list preceding it.
6. The Department interprets the comma before "in the conduct of business in Indiana or elsewhere" to cause the phrase to apply only to the list immediately preceding it. Namely, "demonstrating incompetence, untrustworthiness, or financial irresponsibility". The Department's interpretation is correct.



Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. That Applicant's application for an Indiana Non Resident Independent Adjuster's License be denied.

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the

**Commissioner of Insurance** this 16<sup>th</sup> day of May, 2018



Reuben B. Hill, Esq.  
Administrative Law Judge

Distribution:

Michael A. Johnson  
110 Greg Circle  
Bellevue, NE 68005

Erica J. Dobbs, Attorney  
Attn: Calla Dain, Sr. Investigator  
Indiana Department of Insurance  
311 W. Washington St., Suite 103  
Indianapolis, Indiana 36204

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

Cause No.: 16816-AD18-0102-002

IN THE MATTER OF:                     )  
  )  
INDEPENDENT ADJUSTER LICENSE       )  
APPLICATION OF:                        )  
  )  
Michael A. Johnson                     )  
110 Greg Circle                        )  
Bellevue, NE 68005                    )

**FILED**

FEB 09 2018

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 Michael A. Johnson ("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 December 14, 2017.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-28-16 and Indiana Code § 27-1-28-18.
3. Indiana Code § 27-1-28-18(b)(8) provides, in part, that the Commissioner may refuse to issue an independent adjuster license for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business
4. Following a review of materials submitted by Applicant in support of his 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 § 27-1-28-18(b)(8) due to his



August 18, 2008 Nebraska conviction for Domestic Assault in the Third Degree, a Class I Misdemeanor.

5. Indiana Code § 27-1-28-18(c) provides that the applicant or licensee may, not more than thirty (30) days after receiving the Commissioner's notice of refusal, make written demand upon the Commissioner for a hearing to determine the reasonableness of the refusal.

**IT IS THEREFORE ORDERED** that Applicant's request for licensure is hereby DENIED pursuant to Indiana Code § 27-1-28-18(b)(8), due to his misdemeanor conviction.

2/9/18  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution to:

Michael A. Johnson  
110 Greg Circle  
Bellevue, NE 68005

Calla Dain, Sr. Investigator  
Indiana Department of Insurance  
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