

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO.: 16837-AD18-0109-005

IN THE MATTER OF: )  
 )  
INSURANCE PRODUCER LICENSE )  
APPLICATION OF: )  
 )  
James David Wilkins )  
3275 Blue Springs Drive )  
Monroe, OH 45050 )  
 )  
Applicant. )  
 )  
Type of Agency Action: Enforcement )  
 )  
Application ID: 624966 )

**FILED**

MAY 29 2018

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On April 5, 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 insurance producer 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 29 day of May, 2018.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

James David Wilkins  
3275 Blue Springs Drive  
Monroe, OH 45050

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

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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 James David Wilkins (“Applicant”). This matter came on to be heard by the ALJ on February 27, 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's home state is Ohio.
2. Applicant previously applied for an Indiana Non Resident Producer License on May 23, 2017 ("First Application").
3. On the first application, Applicant failed to disclose that he had previously been a party to an administrative action against him in Ohio and previously suffered a license revocation in Virginia (Department's Exhibit 1).
4. Applicant's Virginia Producer's License was revoked on August 30, 2012, for failing to report the aforementioned Ohio Administrative action (Department's Exhibit 4).
5. Applicant testified that he did not personally complete and submit the First Application.
6. Applicant's First Application was denied on July 21, 2017 (Department's Exhibit 3).
7. Applicant again applied for an Indiana Non Resident Producer License on December 19, 2017 ("Second Application").
8. On the Second Application, Applicant disclosed both the Ohio administrative action and the Virginia license revocation (Department's Exhibit 2).
9. Applicant did not disclose the July 21, 2017 license denial on the Second Application.
10. While Applicant answered "yes" to the relevant question on the Second Application regarding having previously been involved in an administrative proceeding, all supporting information submitted with the application by way of explanation pertained to the Ohio action and the Virginia License Revocation. Investigator Peycha testified that

she reviewed all supporting documentation accompanying Applicant's Second Application, and the July denial was never disclosed.

11. Applicant testified that he personally completed and submitted the Second Application, and that he did not disclose the Indiana license denial.
12. Applicant did not admit any exhibits or call any witnesses to testify on his behalf.

### CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance ("Commissioner") 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)(1) allows the Commissioner to deny an Insurance Producer's License for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
5. Further, Indiana Code 27-1-15.6-12(b)(9) allows the Commissioner to deny an Insurance Producer's License for having an Insurance Producer License denied, suspended, or revoked, in any other state, province, district, or territory.
6. Applicant's failure to disclose the July 2, 2017 Indiana Non Resident Producer License denial on his application is evidence of having provided incorrect and incomplete information in a license application.

7. The s012 revocation of Applicant's Virginia License and Applicant's admission thereto is evidence of his having had a Producer License revoked in another state.
8. Indiana Code 4-21.5-3-14(c) states that the person requesting that the agency take action has the burden of persuasion and the burden of going forward. Applicant is requesting that the Department issue him a Non Resident Producer License and therefore, bears the burden.
9. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Applicant failed to meet his burden of proving the Commissioner's decision was unreasonable.
10. Findings of Fact that can be adopted as Conclusion of Law are hereby incorporated herein as such.

**RECOMMENDED ORDER**

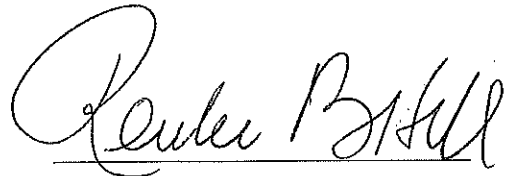
IT IS THEREFORE RECOMMENDED:

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 Applicant's application for an Indiana Non Resident Producer's License be denied.

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

**Commissioner of Insurance** this 5<sup>th</sup> day of April, 2018



Reuben B. Hill, Esq.  
Administrative Law Judge

Distribution:

James David Wilkins  
3275 Blue Springs Drive  
Monroe, Ohio 45050

Erica J. Dobbs, Attorney  
Indiana Department of Insurance  
311 W. Washington Street, Suite 103  
Indianapolis, Indiana 46204

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FEB 07 2018  
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 February 27, 2018, 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 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 January 12, 2018.

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 the August 30, 2012 revocation of his Virginia license, which is in violation of Indiana Code § 27-1-15.6-12(b)(9), and



failing to disclose a July 21, 2017 Preliminary Administrative Order and Notice of License Denial by the State of Indiana on his 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, Erica J. Dobbs, who can be reached at:

Indiana Department of Insurance  
311 West Washington Street - Suite 103  
Indianapolis, Indiana 46204-2787  
Telephone: 317-232-5887

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: 2-7-18

Reuben B. Hill  
Administrative Law Judge  
Indiana Department of Insurance

This Notice has been sent to:

James David Wilkins  
3275 Blue Springs Drive  
Monroe, OH 45050

Taylor Peycha, Insurance Investigator  
Indiana Department of Insurance  
311 West Washington St., Suite 103  
Indianapolis, IN 46204-278

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**PRELIMINARY ADMINISTRATIVE ORDER**  
**AND NOTICE OF LICENSE DENIAL**

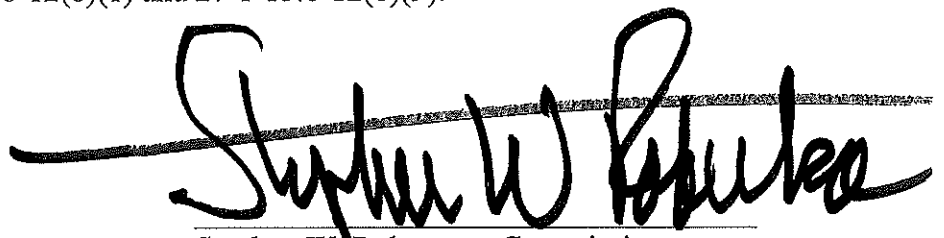
The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to James David Wilkins (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for nonresident licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on January 2, 2018.
2. 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.
3. Indiana Code § 27-1-15.6-12(b)(1) provides that the Commissioner may refuse to issue or renew an insurance producer license for providing incorrect, misleading, incomplete or materially untrue information in a license application.
4. Indiana Code § 27-1-15.6-12(b)(9) provides that the Commissioner may refuse to issue or renew an insurance producer license for having an insurance producer license denied, suspended, or revoked in any other state, province, district, or territory.

5. Following a review of materials submitted by Applicant in support of their 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 § 27-1-15.6-12(b)(9) due to his August 30, 2012 Virginia revocation for failing to report an administrative action taken in the State of Ohio on March 1, 2012.
6. Following a review of materials submitted by Applicant in support of their 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 § 27-1-15.6-12(b)(1) and Indiana Code § 27-1-15.6-12(b)(9) for failing to disclose a July 21, 2017 Preliminary Administrative Order and Notice of License Denial by the State of Indiana on his license application.
7. 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)(1) and 27-1-15.6-12(b)(9).

January 12, 2015  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution to:

James David Wilkins  
3275 Blue Springs Drive  
Monroe, OH 45050

Taylor Peycha, Insurance Investigator  
Indiana Department of Insurance  
311 W. Washington St., Suite 103  
Indianapolis, IN 46204  
317-233-9432, fax 317 234-2103