

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO.: 16979-AD18-0309-030

IN THE MATTER OF: )  
 )  
INSURANCE PRODUCER LICENSE )  
APPLICATION OF: )  
 )  
Candace Jacowen Smith )  
2306 North Indiana Avenue )  
Auburn, IN 46706 )  
 )  
Applicant. )  
 )  
Type of Agency Action: Enforcement )  
 )  
Application ID: 634457 )

**FILED**

AUG 24 2018

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On July 3, 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 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.

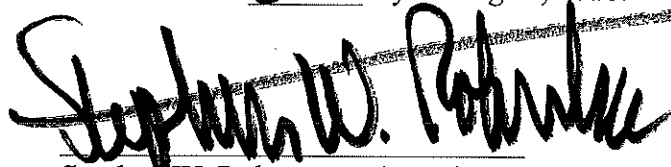
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Applicant's application for an Indiana Resident Producer License is **GRANTED** on a probationary basis for two (2) years.

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 24 day of August, 2018.



Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Candace Jacowen Smith  
2306 North Indiana Avenue  
Auburn, IN 46706

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

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JUL 03 2018

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, 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: \_\_\_\_\_

*July 3, 2018*



Reuben B. Hill  
Administrative Law Judge

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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 Candace Smith (“Applicant”). This matter came on to be heard by the ALJ on May 16, 2018 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, Erica J. Dobbs. 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 submitted her application for Resident Producer Licensure on February 15, 2018 (Department's Exhibit 1)
2. Applicant answered "yes" to the application question that asks, "Have you ever been convicted of a felony?"
3. Applicant was convicted of Operating a Vehicle While Intoxicated with a Previous Conviction, a Level 6 Felony, on November 6, 2017 (Department's Exhibits 2 and 3).
4. Applicant testified that her only other criminal history is the misdemeanor Operating While Intoxicated that caused the 2017 case to be enhanced to a felony.
5. Applicant is serving a term of probation through November 6, 2018. Terms of Applicant's probation include counseling and weekly drug and alcohol screens (Department's Exhibit 3).
6. Applicant testified that she was employed as a bartender at the time of her arrest, but she has since become employed at a State Farm Agency.
7. Applicant testified she no longer drinks alcohol.
8. Applicant called one (1) witness and submitted three (3) exhibits at the hearing.  
  
Applicant's sister testified as to the positive changes she has observed since Applicant began counseling and changed employment. Applicant's Exhibit A is a letter from her probation officer stating that she is in compliance with all of her probation terms.  
  
Applicant's Exhibit B is a letter from her counselor regarding Applicant's success and

progress in the counseling program. Applicant's Exhibit C is a letter of recommendation from Joyce Hefty-Covell, owner of the State Farm Agency where Applicant is employed.

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

### **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)(6) allows the Commissioner to deny an Insurance Producer's License for having been convicted of a felony.
5. Applicant's 2017 conviction for Operating a Vehicle While Intoxicated with a previous conviction, a Level 6 Felony, is evidence of her having been convicted of a felony. Facts in mitigation include Applicant's lack of other criminal history and the corrective steps Applicant is taking regarding her alcohol use.
6. Indiana Code 4-21.5-3-14© 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 a Resident Producer License and, therefore, bears the burden.
7. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Due to mitigating factors, Applicant should be granted a Probationary License.

8. Findings of Fact that can be adopted as Conclusions 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 Resident Producer License should be **GRANTED** on a Probationary Basis for two (2) years.

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 3<sup>rd</sup> day of July, 2018



Reuben B. Hill, Esq.  
Administrative Law Judge

Distribution:

Candace Jacowen Smith  
2306 North Indiana Avenue  
Auburn, Indiana 46706

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

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IN THE MATTER OF:

INSURANCE PRODUCER LICENSE  
APPLICATION OF:

Candace Jacowen Smith  
2306 North Indiana Avenue  
Auburn, IN 46706

Applicant.

Type of Agency Action: Enforcement

Application ID: 634457

**FILED**

APR 19 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 May 16, 2018, at 10:00 ~~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).

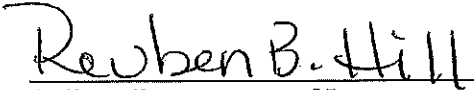
The issues to be resolved at the hearing are those described in the Preliminary Administrative Order and Notice of License Denial filed on March 12, 2018.

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 having a conviction for



Operating a Vehicle While Intoxicated, a Level 6 Felony, which is in violation of Indiana Code § 27-1-15.6-12(b)(6).

In accordance with Indiana Code § 27-1-15.6-34, the Administrative Law Judge in this matter is:

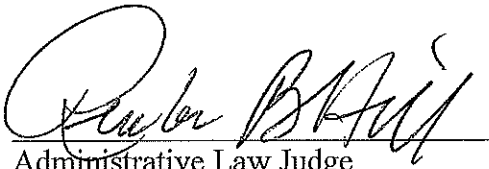
  
Indiana Department of Insurance  
311 West Washington Street - Suite 103  
Indianapolis, Indiana 46204-2787  
Telephone: 317/232-3520

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: 19 April 2018

  
Administrative Law Judge  
Indiana Department of Insurance

This Notice has been sent to:

Candace Jacowen Smith  
2306 North Indiana Avenue  
Auburn, IN 46706

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

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Applicant. )

Type of Agency Action: Enforcement )

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**FILED**

MAR 12 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 § 27-1-15.6-12, hereby gives notice to Candace Jacowen Smith (“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 February 15, 2018.
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)(6) provides that the Commissioner may refuse to issue or renew an insurance producer license for 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 Codes § 27-1-15.6-12(b)(6) due to her November 6, 2017 conviction for Operating a Vehicle While Intoxicated, a Level 6 Felony.

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 Codes § 27-1-15.6-12(b)(6) due to her felony conviction.

3-12-2018  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution to:

Candace Jacowen Smith  
2306 North Indiana Avenue  
Auburn, IN 46706

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