

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 16409-AD17-0912-089

IN THE MATTER OF:)

David R. Nichols)
107 Kenwood Ave)
Charlestown, IN 47111)

Respondent.)

Type of Agency Action: Enforcement)

License Number: 424486)

FILED

DEC 07 2018

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

The Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Erica J. Dobbs, and David R. Nichols ("Respondent"), a licensed resident insurance producer, signed an Agreed Entry which purports to resolve all issues involved in the above-captioned cause number, and which has been submitted to the Commissioner of the Indiana Department of Insurance ("Commissioner") for approval.

The Commissioner, after reviewing the Agreed Entry, which revokes Respondent's producer's license for having a 2007 conviction for Domestic Battery, a Class A Misdemeanor, failing to timely report pending criminal proceedings to the Department, and failing disclose his conviction on applications for license renewal, finds it has been entered into fairly and without fraud, duress or undue influence, and is fair and equitable between the parties. The Commissioner hereby incorporates the Agreed Entry, attached, as if fully set forth herein, and approves and adopts in full the Agreed Entry as a resolution of this matter.

IT IS THEREFORE ORDERED by the Commissioner as follows:

1. Respondent's license number 424486 shall be permanently revoked, effective the date of this order.
2. The Department agrees to accept this agreement as full resolution of this matter.

ALL OF WHICH IS ORDERED this 7 day of December 2018.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Erica J. Dobbs, Attorney
ATTN: Calla Dain, Insurance Investigator
Indiana Department of Insurance
311 West Washington St, Suite 103
Indianapolis, Indiana 46204-2787

David R. Nichols
107 Kenwood Ave
Charlestown, IN 47111

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

**BEFORE THE INDIANA
COMMISSIONER OF INSURANCE**

CAUSE NO.: 16409-AD17-0912-089

IN THE MATTER OF:)

David R. Nichols)
107 Kenwood Ave)
Charlestown, IN 47111)

Respondent.)

Type of Agency Action: Enforcement)

License Number: 424486)

FILED

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**STATE OF INDIANA
DEPT. OF INSURANCE**

AGREED ENTRY

This Agreed Entry is executed by and between the Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Erica J. Dobbs, and David R. Nichols ("Respondent"), to resolve all issues in the above-captioned cause number. This Agreed Entry is subject to the review and approval of Stephen W. Robertson, Commissioner of the Indiana Department of Insurance ("Commissioner").

WHEREAS, Respondent is a licensed resident insurance producer, holding license number 424486 since August 08, 2002;

WHEREAS, on May 31, 2006, Respondent was charged with Domestic Battery, a Class A Misdemeanor, for which he was convicted on May 1, 2007. Respondent's initial hearing was held May 31, 2006;

WHEREAS, Respondent did not report his criminal proceedings to the Department until filing an application for an additional license qualification on August 8, 2017;

WHEREAS, Respondent did not disclose his criminal proceedings on three (3) license renewal applications submitted to the Department between 2006 and 2017;

WHEREAS, on December 21, 2015, Respondent was charged with Reckless Driving, a Class C Misdemeanor, for which he was convicted on April 19, 2016. Respondent's initial hearing was held January 19, 2016;

WHEREAS, Respondent did not report his criminal proceeding to the Department;

WHEREAS, Indiana Code §27-1-15.6-12(b)(2)(A), which states, in part, that the Commissioner may revoke a producer's license for violating an insurance law;

WHEREAS, Respondent's conduct is in violation of Indiana Code §27-1-15.6-17(b), which is an insurance law stating that not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the Commissioner any criminal prosecution of the producer initiated in any jurisdiction;

WHEREAS, Respondent's conduct is in violation of Indiana Code §27-1-15.6-12(b)(1) which states, in part, that the Commissioner may revoke a producer's license for providing incorrect, misleading, incomplete, or materially untrue information in a license application;

WHEREAS, Respondent's conduct is in violation of Indiana Code §27-1-15.6-12(b)(8) which states, in part, that the Commissioner may revoke a 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;

WHEREAS, the Department and Respondent (collectively, the "Parties") desire to resolve this matter without the necessity of a hearing.

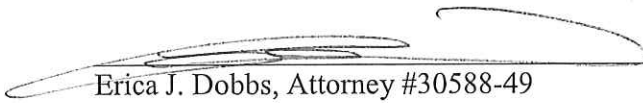
IT IS, THEREFORE, NOW AGREED by and between the Parties as follows:

1. The Commissioner has jurisdiction over the subject matter and the Parties to this Agreed Entry.
2. This Agreed Entry is executed voluntarily by the Parties.

3. Respondent voluntarily and freely waives the right to a public hearing on the issues in this matter.
4. Respondent voluntarily and freely waives the right to judicial review of this matter.
5. Respondent's license shall be permanently revoked, effective the date on which the Commissioner enters his final order adopting this agreed entry.
6. Should additional violations manifest, further administrative actions will be taken for the new violation.
7. The Department agrees to accept Respondent's compliance with this agreement as full satisfaction of this matter.
8. Respondent has carefully read and examined this agreement and fully understands its terms.
9. Respondent has entered into this agreement freely, and has not been subject to duress, threat or undue influence.
10. Should this Agreed Entry not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Entry by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation in or resolution of these proceedings.
11. Respondent is aware that failure to comply with any of the terms of this agreement will result in the matter being set for a hearing.

12/4/18
Date Signed

11/30/18
Date Signed



Erica J. Dobbs, Attorney #30588-49
Indiana Department of Insurance


David R. Nichols, Respondent

STATE OF INDIANA)
COUNTY OF Clark) SS:

Before me a Notary Public for Clark County, State of Indiana,
personally appeared David R. Nichols, and being first duly sworn by me upon his oath, says that
the facts alleged in the foregoing instrument are true.

Signed and sealed this 30TH day of November, 2018,


Signature
MARK A. JOHNSON
Printed

My Commission expires: Oct 23, 2022

County of Residence: Clark

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 16409-AD17-0912-089

IN THE MATTER OF:)
)
INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
David R. Nichols)
107 Kenwood Ave)
Charlestown, IN 47111)
)
Applicant.)

FILED

APR 13 2018

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On February 19, 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 Applicant 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.

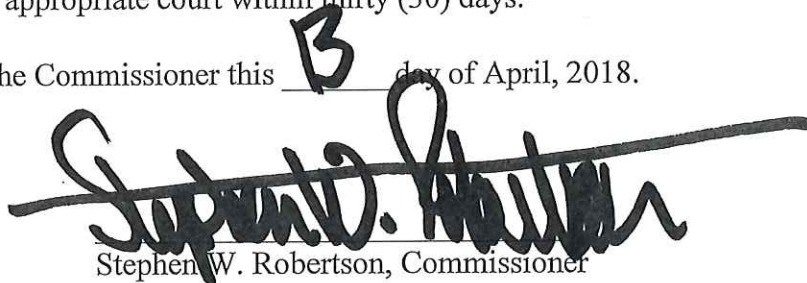
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The decision to deny Applicant's resident producer license is affirmed.
2. 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 13 day of April, 2018.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

David Nichols
107 Kenwood Avenue
Charlestown, IN 47111

Claire Szpara, 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: 16409-AD17-0912-089

IN THE MATTER OF:

Insurance Producer License
Application Of:

David R. Nichols
107 Kenwood Avenue
Charlestown, Indiana 47111

Applicant.

FILED

FEB 19 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, 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.

DATED:

19 Feb 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:)
)
David R. Nichols)
107 Kenwood Avenue)
Charlestown, Indiana 47111)
)
Applicant.)

CAUSE NO.: 16409-AD17-0912-089

FILED

FEB 19 2018

**STATE OF INDIANA
DEPT. OF INSURANCE**

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

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 David Nichols ("Applicant"). This matter came on to be heard by the ALJ on December 19, 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 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 has been a Resident Licensed Producer since 2002. On August 8, 2017, Applicant submitted an application to add an additional line of authority to his existing license.
2. Applicant disclosed a 2007 Class A Misdemeanor Domestic Battery conviction on the additional line of authority application.
3. In May 2006, police responded to a 911 hang-up call at Applicant's residence. Applicant and his wife had an argument, and Applicant took off in a vehicle with a shotgun. Applicant admitted he threw pictures and other objects in the home, as well as choked his wife and pinned her against the wall. Applicant also admitted he threatened to commit suicide.
4. At the hearing, Applicant testified that leading up to that incident, he had lost his job, his wife was unemployed, his mother was diagnosed with cancer, and their first child was born. Applicant and his wife remained married for eight (8) years after this incident.
5. Applicant testified that this additional line of authority is required for his job.
6. Applicant introduced Exhibit A, a letter from his ex-wife, into evidence at the hearing.

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 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 2007 Class A Misdemeanor Domestic Battery conviction is evidence of violating Indiana Code 27-1-15.6-12(b)(8). Facts in mitigation include the length of time since the conviction and Applicant's lack of subsequent criminal history.
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 his 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 show the Commissioner's decision to deny his 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

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 the decision to deny Applicant's Resident Producer License is affirmed and Applicant shall not reapply for licensure for one (1) year beginning the signing of the Final Order.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 19th day of February, 2018.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

David Nichols
107 Kenwood Avenue
Charlestown, Indiana 47111

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 16409-AD17-0912-089

IN THE MATTER OF:)
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INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
)
David R. Nichols)
107 Kenwood Ave)
Charlestown, IN 47111)

FILED

SEP 15 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 David R. Nichols ("Applicant") of the following Administrative Order:

1. Applicant filed an application to add additional line of authority to his existing license with the Commissioner of the Indiana Department of Insurance ("Commissioner") on August 08, 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 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 he has not fully met

the requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b)(8) due to his May 01, 2007 conviction of Battery, a Class A Misdemeanor.

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) due to Applicant's misdemeanor battery conviction.

9-15-17

Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution to:

David R. Nichols
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Charlestown, IN 47111

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