

STATE OF INDIANA )

) SS:

COUNTY OF MARION )

BEFORE THE INDIANA

COMMISSIONER OF INSURANCE

CAUSE NO.: 17401-AG18-0717-118

IN THE MATTER OF: )

Brett Muir,  
142 West Elm Street  
Jamestown, IN 46147

Respondent. )

Type of Agency Action: Enforcement )

Indiana Insurance License No. 3119350 )

**FILED**

DEC 11 2018

STATE OF INDIANA  
DEPT. OF INSURANCE

**FINAL ORDER**

On October 12, 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.

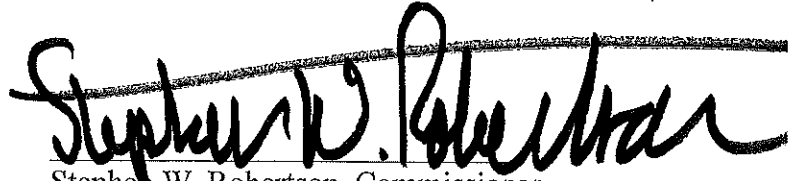
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The refusal to renew Respondent's resident producer license shall be AFFIRMED.

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 11 day of December, 2018.

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Copies to:

Brett Muir  
142 W. Elm Street  
Jamestown, IN 46147

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

STATE OF INDIANA )  
 ) SS:  
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BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NUMBER:

IN THE MATTER OF:

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Respondent.

Type of Agency Action: Enforcement

Indiana Insurance License No. 3119350

**FILED**

OCT 12 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: 10-12-18



Reuben B. Hill  
Administrative Law Judge

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF MARION       )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

IN THE MATTER OF:       )

Brett Muir                       )  
142 West Elm Street            )  
Jamestown, Indiana 46147       )

Respondent.                    )

Type of Agency Action: Enforcement    )

Indiana Insurance License No. 3110350    )

CAUSE NO.: 17401-AG18-0717-118

**FILED**

OCT 12 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 Brett Muir ("Respondent"). This matter came on to be heard by the ALJ on August 29, 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. Respondent appeared in person and without counsel. Testimony 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. Respondent is a licensed Resident Insurance Producer, holding license number 3119350 since November 3, 2015.
2. Respondent's license expired on June 30, 2018.
3. Respondent submitted an application to renew his license on July 11, 2018.  
(Department's Exhibit 1)
4. On said renewal application, Respondent disclosed that he had been convicted of Domestic Battery, a Class A Misdemeanor, on April 18, 2017. (Department's Exhibit 1)
5. Respondent was charged with three (3) counts of Domestic Battery, each as a Class A Misdemeanor, on October 2, 2016. (Department's Exhibit 2)
6. Respondent's initial hearing was held on October 4, 2016. Respondent appeared at the hearing in person and was advised of his rights and the charges against him.  
(Department's Exhibit 4)
7. After a Bench Trial held on April 18, 2017, Respondent was found guilty of Count II: Domestic Battery, a Class A Misdemeanor, which stated that "On or about October 1, 2016, Brett Muir knowingly touched (victim), a family or household member, in a rude, insolent, or angry manner by grabbing on/or squeezing her neck area". Department's Exhibits 2 and 4)
8. Court records reflect Respondent was angry with his then live-in fiancé because he believed she was cheating on him and, during an argument, Respondent choked her.  
(Department's Exhibit 3)

9. Respondent has not appealed the conviction. (Hearing Transcript p. 61)
10. Respondent did not report the charges filed against him to the Department until he submitted his renewal application. (Hearing Transcript p. 38)
11. Respondent testified that he did not think that he had to report the charges until the entire matter was resolved. (Hearing Transcript p. 30)
12. Respondent further testified that the matter was not resolved until August 8, 2018 when he receive a discharge under 11U.S.C. 727 from the United States Bankruptcy Court. (Hearing Transcript p. 21)
13. Respondent then testified that he did not think he needed to report the charges until he was convicted. (Hearing Transcript p.64)
14. Judgment of conviction was entered against Respondent on April 18, 2017. (Department's Exhibit 4)
15. Respondent admitted eleven (11) exhibits on his own behalf. Respondent's Exhibits A-H are merit awards and accompanying letters from OneMain Financial granted to Respondent for achieving particular monetary sales levels. Respondent's Exhibit I is an Order of Discharge from the Southern District of Indiana United States Bankruptcy Court dated August 8, 2018. Respondent's Exhibits J and K are Jamestown Police Department Incident Reports he has made accusing his ex-fiancé of certain crimes, from which no charges have been filed.
16. Conclusions of Law that 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, in part, that the Commissioner may refuse to renew an Insurance Producer License, due to a number of factors.
4. Specifically, Indiana Code 27-1-15.6-12(b)(2)(A) allows the Commissioner to refuse to renew an Insurance Producer License for violating an insurance law.
5. Indiana Code 27-1-15.6-17(b) is an insurance law that states 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.
6. Respondent did not report the criminal charges filed against him on October 2, 2016, for which his initial hearing was held on October 4, 2016, to the Department until July 11, 2018, which is a violation of Indiana Code 27-1-15.6-17(b).
7. Further, Indiana Code 27-1-15.6-12(b)(8) allows the Commissioner to refuse to 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.
8. The nature of and facts underlying Respondent’s conviction demonstrates coercive practices in violation of Indiana Code 27-1-15.6-12(b)(8).

9. 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, Respondent is requesting that the Department renew his Resident Producer License and, therefore, bears the burden.
10. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Respondent failed to meet his burden of proving the Commissioner's decision was unreasonable.
11. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such

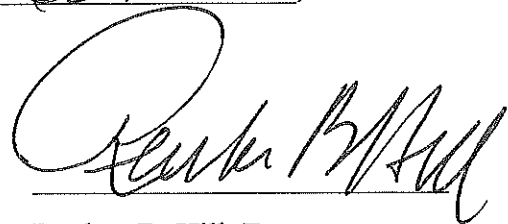
#### RECOMMENDED ORDER

#### 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. The Refusal to renew Respondent's Resident Producer License shall be **AFFIRMED**.

**ALL OF WHICH IS ADOPTED** by the Administrative Law Judge and recommended to the Commissioner of Insurance this 12<sup>th</sup> day of October, 2018



Reuben B. Hill, Esq.  
Administrative Law Judge



Distribution:

Brett Muir  
142 W. Elm Street  
Jamestown, Indiana 46147

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

STATE OF INDIANA     )  
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BEFORE THE INDIANA  
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Respondent.

Type of Agency Action: Enforcement

Indiana Insurance License No. 3119350

**FILED**

JUL 30 2018

STATE OF INDIANA  
DEPT. OF INSURANCE

**ADMINISTRATIVE ORDER**  
**NOTICE OF NONRENEWAL OF LICENSE**

The Indiana Department of Insurance, pursuant to Indiana Code § 4-21.5-1 *et seq.*, and Indiana Code § 27-1-15.6-12, hereby gives notice to Brett Muir, (“Respondent”) of the following Administrative Order:

1. Respondent is a licensed resident insurance producer, holding license number 3119350 since November 3, 2015 (“Respondent’s license”).
2. Respondent’s license expired on June 30, 2018.
3. On October 2, 2016, Respondent was charged with three (3) counts of Domestic Battery, a Class A Misdemeanor.
4. Respondent’s initial hearing on the criminal charges was held on October 4, 2016.
5. Respondent failed to timely report his criminal proceedings to the Department as required by statute.
6. Respondent was subsequently convicted of one (1) count of Domestic Battery, a Class A Misdemeanor, on April 18, 2017.

7. On July 11, 2018, Respondent submitted an application for licensure renewal, in which he disclosed this criminal conviction.

8. Indiana Code § 27-1-15.6-12(b)(2)(A) states, in part, that the Commissioner may refuse to renew an insurance producer's license for violating an insurance law.

9. Indiana Code § 27-1-15.6-17(b) is an insurance law, which states 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.

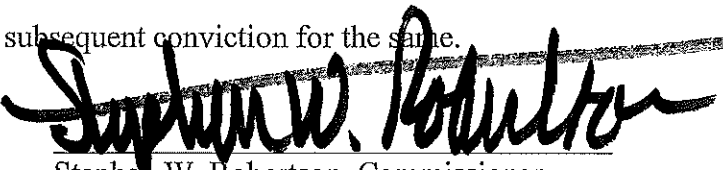
10. Indiana Code § 27-1-15.6-12(b)(8) states, in part, that the Commissioner may refuse to renew a producer's license for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

11. Indiana Code § 27-1-15.6-12(d) requires the Commissioner to notify a licensee of the reason for the nonrenewal of his license. This Order serves as that notice.

12. The Commissioner further notifies Respondent that, pursuant to Indiana Code § 27-1-15.6-12(d), Respondent may, within sixty three (63) days of the mailing of this Order, make a written demand upon the Commissioner for a hearing to determine the reasonableness of this action. Such a hearing shall be held within thirty (30) days from the date of receipt of Respondent's written demand.

WHEREFORE, based on the foregoing, the Commissioner of Insurance hereby notifies Respondent that **his license shall not be renewed**, due to his failure to timely report criminal charges filed against him to the Department and subsequent conviction for the same.

July 30, 2018  
Date Signed

  
Stephen W. Robertson, Commissioner  
Indiana Department of Insurance

Distribution:

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

Brett Muir  
142 West Elm Street  
Jamestown, IN 46147