

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO: 17360-AG18-0703-112

IN THE MATTER OF:)
)
Robert Newton, Jr.)
4751 S. Himalaya Ct)
Aurora, CO 80015)
)
Applicant.)
)
Type of Agency Action: Enforcement)
)
Application ID: 656207)

FILED

JAN 11 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On December 6, 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.

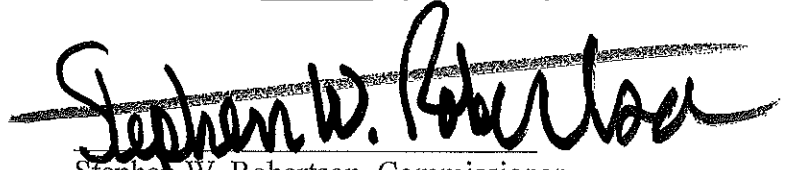
Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The DENIAL of Applicant's application for a non-resident producer license shall is
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 January, 2019.

A handwritten signature in black ink that reads "Stephen W. Robertson". The signature is written in a cursive style and is positioned above the printed name of the Commissioner.

Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Robert Newton, Jr.
4751 S. Himalaya Ct
Aurora, CO 80015

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

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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: 6 Dec 2018



Reuben B. Hill
Administrative Law Judge

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**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 Robert Newton, Jr. (“Applicant”). This matter came on to be heard by the ALJ on October 24, 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 Insurance (“Department”) was represented by counsel, Erica J. Dobbs. Applicant appeared by telephone 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 this Recommended Order.

1. Applicant applied for Non- Resident Producer License on June 11, 2018.
2. Applicant's home state is Colorado.
3. On his application, Applicant disclosed three (3) prior felony convictions.
4. Applicant was convicted of Aggravated Motor Vehicle Theft, a Class 4 Felony, on February 18, 2000 in Arapahoe County, Colorado. (Department's Exhibit 1)
5. Applicant was sentenced to four (4) years at the Colorado Department of Corrections, suspended credit for time served, and placed on probation for three (3) years. (
6. Hearing Transcript p. 36)
7. Applicant was convicted of Criminal Impersonation, a Class 6 Felony, on January 28, 2002 in Arapahoe County, Colorado. (Department's Exhibit 2)
8. This offense and conviction violated Applicant's probation in his earlier Motor Vehicle Theft case. (Hearing Transcript p. 37)
9. Applicant's probation in the Motor Vehicle Theft case was revoked and he was placed on Community Corrections in both cases. (Hearing Transcript p. 39)
10. Applicant was then convicted of Criminal Impersonation, a Class 6 Felony, on August 20, 2007 in Douglas County, Colorado. (Department's Exhibit 3)
11. Applicant testified that he was again driving with a revoked driver's license and again gave the same other individual's name. (Hearing Transcript p. 40)
12. Applicant was ordered to execute this sentence, as well as the remainder of the sentences in his previous two (2) cases at the Colorado Department of Corrections. (Department's Exhibits 1-3. (Hearing Transcript p. 40)

13. Applicant testified he served eight (8) months in prison and was released on parole for a little over a year. (Hearing Transcript p.37)
14. Applicant obtained his Colorado Producer License with a Life and Health qualification in 2011. (Hearing Transcript p. 8)
15. Applicant's Colorado license was suspended on September 6, 2013 for failure to pay child support. (Department's Exhibit 4)
16. Applicant's Colorado Producer License was again suspended on January 6, 2014 for failure to pay child support. (Department's Exhibit4)
17. Applicant testified that in both instances his child support payment was delayed in the mail and each suspension lasted only two (2) days. (Hearing Transcript p. 41)
18. Applicant applied for a property and casualty qualification for his Colorado Producer License, which was denied ay 7, 2012 due to his three (3) felony convictions and lack of a 1033 waiver. (Department's Exhibit 4. (Hearing Transcript p. 41)
19. Applicant offered six (6) exhibits at the hearing. Applicant's Exhibits A and B pertain to negotiations preceding a 2015 Indiana Non- Resident Producer License denial, and were taken under advisement but not admitted. Applicant's Exhibits D is Applicant's August 10, 2015 Colorado 1033 waiver application.
20. 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 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. Indiana Code 27-1-15.6-12(b)(6) allows the Commissioner to deny an Insurance Producer License for having been convicted of a felony.
5. This Applicant has three (3) felony convictions: Aggravated Motor Vehicle Theft, a Class 4 Felony, from February 18, 2000, Criminal Impersonation, a Class 6 Felony, from January 8, 2002, and Criminal Impersonation, a Class 6 Felony, from August 20, 2007.
6. Indiana Code 27-1-15.6-12(b)(9) allows the Commissioner to deny an Insurance Producer License for having an Insurance Producer License, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.
7. Applicant's home state property and casualty Insurance Producer License application was denied May 7, 2012 due to his criminal history.
8. Applicant's home state life and health Insurance Producer License has been suspended twice for failure to pay child support.
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. Applicant is requesting that the Department issue him a Non- 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. Applicant failed to meet his burden of proving the Commissioner's decision was unreasonable.

11. 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 denial of Applicant's application for a Non- Resident Producer License be **AFFIRMED.**

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 6th day of December, 2018



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Robert Newton, Jr.
4751 S. Himalaya Ct.
Aurora, CO 80015

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

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STATE OF INDIANA
DEPT. OF INSURANCE

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

Administrative Law Judge (“ALJ”) Reuben Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Robert Newton, Jr. (“Applicant”). This matter came to be heard by the ALJ on October 24, 2018 at 11:00a.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. 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 his Recommended Order.

FINDINGS OF FACT

1. Applicant applied for nonresident producer licensure on June 11, 2018.
2. Applicant’s home state is Colorado.
3. On his application, Applicant disclosed three (3) prior felony convictions.

4. Applicant was convicted of Aggravated Motor Vehicle Theft, a Class 4 Felony, on February 18, 2000 in Arapahoe County, Colorado. (Department's Exhibit 1)

5. Applicant was sentenced to four (4) years at the Colorado Department of Corrections, suspended with credit for time served, and placed on probation for three (3) years. (Department's Exhibit 1; Hearing Transcript p. 36)

6. Applicant was convicted of Criminal Impersonation, a Class 6 Felony, on January 28, 2002 in Arapahoe County, Colorado. (Department's Exhibit 2)

7. Applicant testified that he was driving with a revoked driver's license and used another individual's name in an attempt to avoid additional criminal charges. (Hearing Transcript, p. 38-39)

8. This offense and conviction violated Applicant's probation in his earlier Motor Vehicle Theft case. (Hearing Transcript, p. 37)

9. Applicant's probation in the Motor Vehicle Theft case was revoked and he was placed on Community Corrections in both cases. (Hearing Transcript, p. 39)

10. Applicant was then convicted of Criminal Impersonation, a Class 6 Felony, on August 20, 2007 in Douglas County, Colorado. (Department's Exhibit 3)

11. Applicant testified that he was again driving with a revoked driver's license and again gave the same other individual's name. (Hearing Transcript, p. 40)

12. Applicant was ordered to execute this sentence, as well as the remainder of the sentences in his previous two (2) cases at the Colorado Department of Corrections. (Department's Exhibits 1-3, Hearing Transcript, p. 40)

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18. Applicant applied for a property and casualty qualification for his Colorado Producer's License, which was denied May 7, 2012 due to his three (3) felony convictions and lack of a 1033 waiver. (Department's Exhibit 4; Hearing Transcript, p. 41)

19. Applicant offered six (6) exhibits at the hearing. Applicant's Exhibits A and B pertain to negotiations preceding a 2015 Indiana nonresident producer license denial, and were taken under advisement but not admitted. Applicant's Exhibits C and F are character reference letters from two (2) of his coworkers. Applicant's Exhibit D is Applicant's August 10, 2015 Colorado 1033 waiver. Applicant's Exhibit E is the July 28, 2015 affidavit from his employer to support his 1033 waiver application.

20. 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 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. 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 has three (3) felony convictions: Aggravated Motor Vehicle Theft, a Class 4 Felony, from February 18, 2000; Criminal Impersonation, a Class 6 Felony, from January 8, 2002; and Criminal Impersonation, a Class 6 Felony, from August 20, 2007.

6. 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, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

7. Applicant's home state property and casualty insurance producer license application was denied May 7, 2012 due to his criminal history.

8. Applicant's home state life and health insurance producer license has been suspended twice for failure to pay child support.

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, Applicant is requesting that the Department issue him a nonresident 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. Applicant failed to meet his burden of proving the Commissioner's decision was unreasonable.

11. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the 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 denial of Applicant's application for a nonresident producer's license be
AFFIRMED.

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

Reuben Hill
Administrative Law Judge

Distribution:

Robert Newton, Jr.
4751 S. Himalaya Ct
Aurora, CO 80015

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

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JUL 30 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 Robert Newton, Jr. (“Applicant”) of the following Administrative Order:

1. Applicant submitted an application for licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on June 11, 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)(6) provides, in part, that the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.
4. Indiana Code § 27-1-15.6-12(b)(9) provides, in part, that the Commissioner may refuse to issue an insurance producer license for having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

5. The Commissioner, being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure, as stated by Indiana Codes 27-1-15.6-12(b)(6) and 27-1-15.6-12(b)(9), due to Applicant's license denial for criminal history in the State of Colorado on May 7, 2012, a license suspension in the State of Colorado for failure to pay child support on September 6, 2013, a license suspension in the State of Colorado for the failure to pay child support on January 6, 2014, a felony conviction for Motor Vehicle Theft on February 18, 2000 in the State of Colorado, and two Class 6 Felony convictions in the State of Colorado for Criminal Impersonation from January 28, 2002 and January 12, 2005.
6. 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 applicant's 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), and §27-1-15.6-12(b)(9), due to having multiple felony convictions and having a producer license previously denied and suspended.

July 30, 2018
Date Signed

Stephen W. Robertson
Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Robert Newton, Jr.
4751 S. Himalaya Ct.
Aurora, CO 80015

Erica J. Dobbs, Attorney
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