

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 17527-AD18-0911-070

IN THE MATTER OF:)

Daniel A. Luttrell)
412 S. Rambler Rd)
Muncie, IN 47604)

Applicant.)

License Application #: 666629)

Type of Agency Action: Enforcement)

FILED

FEB 08 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On January 3, 2019, 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. Refusal to issue Applicant an Indiana resident producer's license is affirmed and Applicant is not to re-apply 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 8 day of February, 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Daniel A. Luttrell
412 S. Rambler Rd
Muncie, IN 47604

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

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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: 1-3-19


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 Daniel Luttrell ("Applicant"). This matter came on to be heard by the ALJ on November 14, 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 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 this Recommended Order.

FINDINGS OF FACT

1. Applicant applied for a Resident Producer License on August 15, 2018.
2. On his application disclosed a prior criminal conviction for Harassment, a Class A Misdemeanor, from August 6, 2015 in the State of Oregon. (Applicant's Exhibit A)
3. This conviction was pursuant to a plea agreement, wherein Applicant pleaded guilty to unlawfully and intentionally harassing or annoying the victim by subjecting her to offensive physical contact. (Department's Exhibit 1) (Applicant's Exhibit A)
4. At the hearing, the ALJ took judicial notice of Oregon Revised Statute 166.065.
5. Under Oregon Revised Statute 166.065, Harassment is a Class B Misdemeanor, which enhances to a Class A Misdemeanor if the victim of the offense is a family or household member.
6. As a result of the plea agreement, the lead charge of Assault in the Fourth Degree, an act which "constituted an act of domestic violence", was dismissed. (Applicant's Exhibit A)
7. Applicant testified that the victim was his live-in fiancée, and the battery occurred when his fiancée attempted to force a conversation he did not want to have. (Hearing Transcript pp. 33, 47)
8. Applicant admitted eleven (11) exhibits at the hearing. Applicant's Exhibit A is a copy of the Judgment of Conviction from the 2015 Harassment conviction. Applicant's Exhibits B-F pertain to a restricted Producer License Application obtained on May 10, 2018 in the State of California. Applicant's Exhibit G is the Commissioner's Preliminary

Order of License Denial entered September 21, 2018. Applicant's H-K are character reference letters from four (4) of Applicant's friends.

9. Applicant testified his California restricted license was granted after he moved to Indiana, and he surrendered it in August 2018. (Hearing Transcript pp.21, 36)
10. 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 21-1-15.6-12 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 2015 harassment conviction, on its face, demonstrates coercive conduct in violation of Indiana Code 27-1-15.6-12(b)(8).
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 him 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 was unreasonable.
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. The refusal to issue Applicant an Indiana Resident Producer License shall be **AFFIRMED** and Applicant shall not re-apply for licensure for one (1) year from the date of the Final Order in this matter.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 19th day of January, 2019.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Daniel A. Luttrell
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Muncie, Indiana 47604

Erica J. Dobbs, Attorney
Attn: Calla Dain, Insurance Investigator
Indiana Department of Insurance
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Indianapolis, Indiana 46204

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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 Daniel A. Luttrell ("Applicant") of the following Administrative Order:

1. Applicant filed an application for resident producer licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on August 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)(8) provides, in part, 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 his 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 2015 conviction for Harassment, a Class A Misdemeanor, out of Oregon.

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 his misdemeanor conviction. Applicant may reapply for licensure not less than one (1) year from the date of this order.

September 21, 2018
Date Signed

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

Distribution to:

Daniel A. Luttrell
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