

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 17608-AD18-1001-080

IN THE MATTER OF:)

Joshua Silvers)
3427 Lauriston Drive)
New Castle, IN 47362)

Applicant.)

Type of Agency Action: Enforcement)

Application ID: 672293)

FILED

FEB 08 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On January 10, 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. Denial of Applicant's application for resident producer licensure 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 8 day of February, 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Joshua Silvers
3427 Lauriston Drive
New Castle, IN 47362

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

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JAN 10 2019

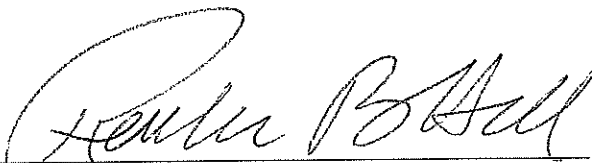
STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's Recommended Order is 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 Jan 2019


Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Joshua Silvers)
3427 Lauriston Drive)
New Castle, Indiana 47362)

Applicant.)

Type of Agency Action: Enforcement)

Application ID: 672293)

CAUSE NO.: AD18-1001-080

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JAN 10 2019

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 Joshua Silvers (“Applicant”). This matter came on to be heard by the ALJ on November 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. 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 his Recommended Order.

FINDINGS OF FACT

1. Applicant applied for a Resident Insurance Producer License on September 12, 2018.
2. Applicant disclosed on his application that he had previously been convicted of a felony.
3. Applicant has a conviction for Child Molesting, a Class C Felony, from December 13, 2001. (Department's Exhibits 1 and 3)
4. Applicant testified that, at the time of the offense, he was twenty (20) years old and did not know the victim's age. (Hearing Transcript, p. 24)
5. Applicant testified that he was told by the victim's cousin that she was seventeen (17) or eighteen (18) years old. (Hearing Transcript, p. 24)
6. The charging information filed February 1, 2001 states that on or about November 14, 2000, Applicant "Did perform or submit to touching with [A.M.], a child under fourteen (14) years of age, with the intent to arouse or satisfy sexual desires of [Applicant]". (Department's Exhibit 2)
7. The ALJ took judicial notice of Indiana Code 35-42-4-3 as it appeared in the year 2000.
8. At the time of Applicant's offense, it was a defense to the crime of Child Molesting that the accused person reasonably believed that the child was sixteen (16) years of age or older.
9. Applicant pleaded guilty as charged and was sentenced to one hundred eighty (180) days executed in the Henry County Jail, followed by four (4) years of probation, with terms of probation including counseling, polygraph testing, and a ten (10) year sex offender registration requirement. (Department's Exhibits 1 and 3, Hearing Transcript, p. 25-26)

10. Applicant testified that he successfully completed his sentence. (Hearing Transcript, p. 29)
11. Applicant states that he has made amends with the victim and his family now has a close relationship with her family. (Hearing Transcript, p. 21)
12. Neither the victim nor any members of her family testified at the hearing or submitted any letters of recommendation on Applicant's behalf.
13. Applicant admitted three (3) exhibits at the hearing and called one (1) witness to testify on his behalf. Applicant's Exhibit A is a reference letter from a licensed insurance producer, Applicant has known since high school. Applicant's Exhibit B is a reference letter from Applicant's wife. Applicant's Exhibit C is a reference letter from a life-long friend.
14. Doug Hoog testified that he has known Applicant for a little less than two (2) years and has seen Applicant help families he has dealt with at the funeral home where he works. (Hearing Transcript, p. 18)
15. 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 persons 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 License for having been convicted of a felony.
5. Applicant has a Class C Felony conviction for Child Molesting.
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. Applicant failed to meet his burden of proving the Commissioner's decision was unreasonable.
8. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

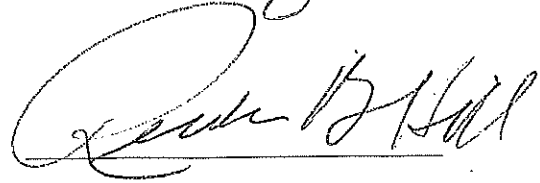
RECOMMENDED ORDER

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. That the denial of Applicant's application for an Indiana Resident Insurance Producer License be **AFFIRMED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the
Commissioner of Insurance this 10th day of January, 2019.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Joshua Silvers
3427 Lauriston Drive
New Castle, Indiana 47362

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

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
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CAUSE NO.: 17608-AD18-1001-080

IN THE MATTER OF:)
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3427 Lauriston Drive)
New Castle, IN 47362)
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Applicant.)
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Type of Agency Action: Enforcement)
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Application ID: 672293)

FILED

DEC 27 2018

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 Joshua Silvers (“Applicant”). This matter came to be heard by the ALJ on November 29, 2018 at 10:00 a.m. at the Indiana Department of Insurance, 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 his Recommended Order.

FINDINGS OF FACT

1. Applicant applied for a resident insurance producer license on September 12, 2018.
2. Applicant disclosed on his application that he had previously been convicted of a felony.

3. Applicant has a conviction for Child Molesting, a Class C Felony, from December 13, 2001. (Department's Exhibits 1 and 3)

4. Applicant testified that, at the time of the offense, he was twenty (20) years old and did not know the victim's age. (Hearing Transcript, p. 24)

5. Applicant testified that he was told by the victim's cousin that she was seventeen (17) or eighteen (18) years old. (Hearing Transcript, p. 24)

6. The charging information filed February 1, 2001 states that on or about November 14, 2000, Applicant "did perform or submit to touching with [A.M.], a child under fourteen (14) years of age...with the intent to arouse or satisfy sexual desires of [Applicant]." (Department's Exhibit 2)

7. The ALJ took judicial notice of Indiana Code § 35-42-4-3 as it appeared in the year 2000.

8. At the time of Applicant's offense, it was a defense to the crime of Child Molesting that the accused person reasonably believed that the child was sixteen (16) years of age or older.

9. Applicant pleaded guilty as charged and was sentenced to one hundred eighty (180) days executed in the Henry County Jail, followed by four (4) years of probation, with terms of probation including counseling, polygraph testing, and a ten (10) year sex offender registration requirement. (Department's Exhibits 1 and 3; Hearing Transcript, p. 25-26)

10. Applicant testified that he successfully completed his sentence. (Hearing Transcript, p. 29)

11. Applicant states that he has made amends with the victim and his family now has a close relationship with her family. (Hearing Transcript, p. 21)

12. Neither the victim nor any members of her family testified at the hearing or submitted any letters of recommendation on Applicant's behalf.

13. Applicant admitted three (3) exhibits at the hearing and called one (1) witness to testify on his behalf. Applicant's Exhibit A is a reference letter from a licensed insurance producer Applicant has known since high school; Applicant's Exhibit B is a reference letter from Applicant's wife; and Applicant's Exhibit C is a reference letter from a life-long friend.

14. Doug Hoog testified that he has known Applicant for a little less than two (2) years but has seen Applicant help families he has dealt with at the funeral home where he works. (Hearing Transcript, p. 18)

15. 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 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 has a Class C Felony conviction for Child Molesting.

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. Here, 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. Applicant failed to meet his burden of proving 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

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner the following:

1. That the denial of Applicant's application for an Indiana resident insurance producer license be AFFIRMED.

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

Reuben Hill
Administrative Law Judge

Distribution:

Joshua Silvers
3427 Lauriston Drive
New Castle, IN 47362

Erica J. Dobbs, 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 NO.: 17608-AD18-1001-080

IN THE MATTER OF:)
)
Joshua Silvers)
3427 Lauriston Drive)
New Castle, IN 47362)
)
Respondent.)
)
Type of Agency Action: Enforcement)
)
Application ID: 672293)

FILED
NOV 09 2018
STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF NEW HEARING

The hearing in this matter is currently set on November 28, 2018 at 10:00am. The attorney for the Department is unavailable on that day and time and requests a one (1) day continuance. Applicant does not object.

Notice is hereby given, pursuant to Indiana Code § 4-21.5-3 *et seq.*, that an evidentiary hearing will be held on **November 29, 2018, at 10:00 A.M. Eastern Time**, at 311 West Washington Street, Suite 103, Indianapolis, Indiana, to determine whether to grant Respondent's request for approval of his 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 regarding agent licensing 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 October 15, 2018.

The Indiana Department of Insurance asserts that Respondent has violated Indiana Code §§ 27-1-15.6-12(b)(6) by having a felony conviction.

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

Reuben B. Hill

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: 317/234-5887

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: 11/9/18

Reuben B. Hill
Administrative Law Judge
Indiana Department of Insurance

Distribution:

Erica J. Dobbs, Attorney
ATTN: Melissa Higgins, Sr. Insurance Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204-2787

Joshua Silvers
3427 Lauriston Drive
New Castle, IN 47362

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Applicant.)

Type of Agency Action: Enforcement)

Application ID: 672293)

FILED

OCT 15 2018

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

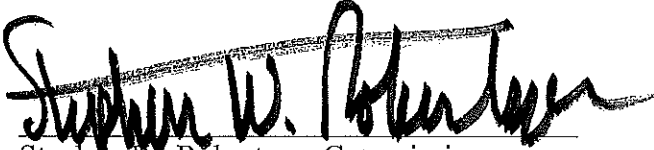
The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to Joshua Silvers (“Applicant”) of the following Administrative Order:

1. Applicant submitted an application for resident producer licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on September 12, 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, in part, that the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.
4. 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)(6) due to his conviction for Child Molesting, a Class C Felony, from December 13, 2001 in the State of Indiana.

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 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), due to having been convicted of Child Molesting, a Class C Felony, in the State of Indiana.

October 15, 2018
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Joshua Silvers
3427 Lauriston Drive
New Castle, IN 47362

Erica J. Dobbs, Attorney
ATTN: Melissa Higgins, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-8687, fax 317 234-2103