

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO: 18003-AG19-0214-020

IN THE MATTER OF:)
)
Kyle Christopher Welch)
5822 Hartford Lane)
Charlestown, Indiana 47111)
)
Respondent,)
)
License Number: 967864)
)
Type of Agency Action: Enforcement)

FILED

DEC 06 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

On October 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 counsel of record.
2. The Department has complied with the notice requirements of Ind. Code § 4-21.5-3-17.
3. Respondent's counsel timely filed an objection on October 25, 2019.


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 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 6 day of December 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Carrie G. Doehrmann
Carly J. Tebelman
201 N. Illinois St., Suite 1900
P.O. Box 44961
Indianapolis, Indiana. 46244-0961

Victoria Hastings
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

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JUN 20 2019

STATE OF INDIANA
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**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 Kyle Christopher Welch (“Respondent”). This matter came to be heard by the ALJ on May 22, 2019 at 11:30 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, Victoria Hastings. Respondent appeared in person and by counsel, Carly J. Tebelman and Carrie G. Doehrmann. 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 and Conclusions of Law, and issues his Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer, holding license number 967864 since July 31, 2014.

2. Respondent submitted an application to renew his resident producer license on January 29, 2019.

3. Respondent's license expired on February 28, 2019.

4. Charges were filed against Respondent in Clark Circuit Court II on December 14, 2018. (Department's Exhibit 1)

5. Respondent was charged with five (5) counts, including: Dealing in Marijuana with an Amount of at Least 10 Pounds, a Level 5 Felony; Unlawful Possession or Use of a Legend Drug, a Level 6 Felony; two (2) counts of Possession of a Controlled Substance, a Level 6 Felony; and Possession of Marijuana, a Class B Misdemeanor. (Department's Exhibit 1)

6. Respondent's Initial Hearing was held December 18, 2018. (Department's Exhibit 1)

7. The Commissioner entered his Administrative Order-Notice of Nonrenewal of License on March 20, 2019, due to Respondent's failure to timely report his criminal charges to the Department.

8. A hearing was held at Respondent's request on May 22, 2019.

9. Respondent testified that he appeared in person for his Initial Hearing on December 18, 2018. (Hearing Transcript, p. 32)

10. Respondent testified that he was advised of his rights and the charges against him at his Initial Hearing on December 18, 2018. (Hearing Transcript, p. 32)

11. At the Initial Hearing on December 18, 2018, the Judge entered a Pretrial Order setting the matter for pretrial conferences to be held at the prosecutor's office on February 11, 2019 and March 18, 2019. (Respondent's Exhibit B)

12. The February 11, 2019 pretrial conference was vacated on January 24, 2019. (Department's Exhibit 1; Respondent's Exhibit A)

13. Respondent did not report the criminal charges filed against him to the Department until he submitted his renewal application. (Hearing Transcript p. 34-35)

14. The application date of January 29, 2019 is forty-two (42) days after the Initial Hearing.

15. Respondent testified that he believed the hearing on December 18, 2018 was an "initial conference" and that at that hearing the matter was set for an "initial hearing" as the next date. (Hearing Transcript, p. 31-33)

16. Respondent argues that the phrase "initial pretrial hearing" means the first pretrial conference, whereas the Department argues that it refers to the Initial Hearing.

17. Respondent admitted five (5) exhibits at the hearing. Respondent's Exhibit A is the Chronological Case Summary for his criminal case, which was also admitted as Department's Exhibit 1. Respondent's Exhibit B is a copy of the Pretrial Order resulting from his Initial Hearing on December 18, 2018. Respondent's Exhibit C is a demonstrative exhibit purporting to summarize a timeline of events as described in Respondent's Exhibit A. Respondent's Exhibit's D and E are copies of Indiana Code § 35-36-8-1 and Indiana Code § 35-36-8-3, respectively.

18. 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's 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's 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. All hearings that occur prior to the trial in a criminal case are, by definition, pretrial hearings. Thus, the "initial pretrial hearing date" for purposes of Indiana Code § 27-1-15.6-17(b) is the Initial Hearing.

7. Respondent did not report the criminal charges filed against him on December 14, 2018, for which his Initial Hearing was held on December 18, 2018, to the Department until January 29, 2019, in violation of Indiana Code § 27-1-15.6-17(b).

8. 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.

9. 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.

10. 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. 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 this _____ day of _____, 2019.

Reuben Hill
Administrative Law Judge

Distribution:

Kyle Christopher Welch
c/o Carrie G. Doehrmann and
Carly J. Tebelman, Attorneys for Respondent
201 N. Illinois St., Suite 1900
P.O. Box 44961
Indianapolis, IN 46244-0961

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

STATE OF INDIANA)
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BEFORE THE INDIANA
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Respondent.)
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Number: 967864)

FILED

APR 29 2019

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF HEARING

Notice is hereby given, pursuant to Indiana Code § 4-21.5-3 *et seq.*, that an evidentiary hearing will be held on May 22, 2019 at 11:30 (A.M./P.M.) Eastern Time, at 311 W Washington Street, Suite 103, Indianapolis, Indiana, to determine whether to grant Respondent's request to renew 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 to refuse to renew a producer's license is contained in Indiana Code § 27-1-15.6-12.

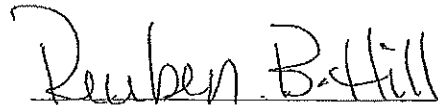
The issues to be resolved at the hearing are those described in the Notice of Nonrenewal of License, filed March 20, 2019.

The Indiana Department of Insurance asserts that Respondent has not fully met the requirements of licensure under Indiana Code § 27-1-15.6-6 and Indiana Code § 27-1-15.6-12.

Specifically, Respondent failed to timely report to the Department his December 3, 2018 criminal charges for Dealing Marijuana, a Level 5 Felony, Unlawful Possession of a Legend Drug, a Level 6 Felony, Possession of a Controlled Substance, a Level 6 Felony, and Possession

of Marijuana, a Class B Misdemeanor, in violation of Indiana Codes §§ 27-1-15.6-12(b)(2)(A), 27-1-15.6-17((b), and 27-1-15.6-12(b)(8).

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


Indiana Department of Insurance
311 W Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317-232-3520

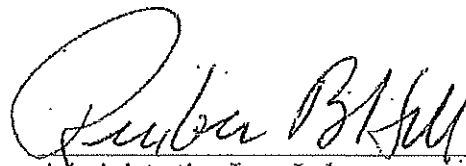
The Department of Insurance will be represented by its counsel, Victoria Hastings, who can be reached at:

Indiana Department of Insurance
311 W Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317-234-2101

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: _____

4/29/19


Administrative Law Judge
Indiana Department of Insurance

This Notice has been sent to:

Kyle Christopher Welch
c/o Carrie G. Doehrmann
201 N. Illinois St. Suite 1900
Indianapolis, IN 46244-0961

Victoria Hastings, Attorney
ATTN: Dennis Wood, Supervising Investigator
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787

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License Number: 967864)

FILED

MAR 20 2019

STATE OF INDIANA
DEPT. OF INSURANCE

ADMINISTRATIVE ORDER
NOTICE OF NONRENEWAL OF LICENSE


The Indiana Department of Insurance (“Department”), 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 Kyle Christopher Welch (“Respondent”) of the following Administrative Order:

1. Respondent is a licensed resident insurance producer holding license number 967864 (“Respondent’s license”) since July 31, 2014.
2. Respondent’s license expired on February 28, 2019.
3. On December 3, 2018, Respondent was charged with the following:
 - a. Dealing in Marijuana with amount of at least 10 pounds, a Level 5 Felony
 - b. Unlawful Possession or Use of a Legend Drug, a Level 6 Felony
 - c. Possession of a Controlled Substance, a Level 6 Felony
 - d. Possession of a Controlled Substance, a Level 6 Felony
 - e. Possession of Marijuana, a Class B Misdemeanor

4. Respondent's initial hearing was on December 18, 2018.
5. Respondent submitted an application to renew his license on February 11, 2019. On said application, Respondent disclosed his pending criminal charges.
6. 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.
7. Indiana Code § 27-1-15.6-17(b) is an insurance law, which states, in part, 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.
8. Indiana Code § 27-1-15.6-12(b)(8) states the commissioner may 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.
9. Indiana Code § 27-1-15.6-12(d) provides that when the Commissioner refuses to renew a license, the Commissioner shall notify the Respondent, in writing, of the reasons for the nonrenewal. This Order serves as that notice.
10. 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 **Respondent's license shall not be renewed** for failing to timely report (5) criminal charges to the Department.

3-20-2019
Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Kyle Christopher Welch
5822 Hartford Lane
Charlestown, IN 47111

Victoria Hastings, Attorney
ATTN: Taylor Peycha, Jr. Investigator
Indiana Department of Insurance
311 W Washington St., Suite 103
Indianapolis, IN 46204-2787