

STATE OF INDIANA)
)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 18044-AD19-0401-036

IN THE MATTER OF:)
)
Xavier Amador Santiago)
1613 East Eighth St.,)
Jeffersonville, IN 47130)
)
Applicant.)
)
Application ID # 694696)
)
Type of Agency Action: Enforcement)

FILED

NOV 07 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On September 12, 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. 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 the Applicant's resident navigator certificate under license number 694696 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 7 ^{November} day of ~~October~~, 2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Xavier Santiago
c/o John H. Sharpe
One Indiana Sq., Suite 3500,
Indianapolis, IN 46204

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

Copy

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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 18044-AD19-0401-036

IN THE MATTER OF:)

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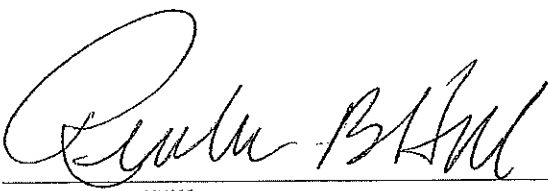
FILED
SEP 12 2019
STATE OF INDIANA
DEPT. OF INSURANCE

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: 9/12/19



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Xavier Amador Santiago)
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Applicant.)

Type of Agency Action: Enforcement)

Application ID # 694696)

CAUSE NO.: 18044-AD19-0401-036

FILED

SEP 12 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, now renders a decision concerning the matter of Xavier Amador Santiago (“Applicant”). This matter came on to be heard by the ALJ on July 31, 2019 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, Victoria Hastings. Applicant appeared in person and by counsel, John H. Sharpe. 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 submitted his application for Resident Navigator Certification under Certificate Number 694696 on January 25, 2019. (Department's Exhibit 1)
2. Applicant failed to disclose multiple prior administrative actions on his application for certification. (Hearing Transcript, p. 7)
3. The Commissioner issued his Preliminary Administrative Order and Notice of Certification Denial on April 12, 2019, due to Applicant's administrative actions and failure to disclose same. (Applicant's Exhibit D)
4. On or around April 30, 2019, Applicant filed his petition for a review hearing. (Applicant's Exhibit C)
5. A review hearing was originally scheduled for May 29, 2019.
6. Counsel for Applicant filed a Motion for Continuance on May 23, 2019, and waived Applicant's right to have a hearing within the thirty (30) days from the date of the order.
7. A subsequent review hearing was scheduled for July 31, 2019.
8. On Applicant's application for certification, he answered "No" to application question that asks, "Have you ever been involved in an administrative proceeding?" (Department's Exhibit 1)
9. On November 19, 2012, the Kentucky Department of Insurance revoked Applicant's Kentucky Insurance Producer License for the failure to respond to communication, which

stemmed from a Notice of Termination that alleged fraudulent, coercive, or dishonest practices as the reason for Applicant's termination. (Department's Exhibit 2)

10. Applicant testified that he was aware of the 2012 Kentucky administrative action, and hired an attorney to deal with the matter. (Hearing Transcript, p. 20-22)
11. On June 4, 2013, the Kentucky Department of Insurance entered into an Agreed Order of Probation with Applicant. (Department's Exhibit 3)
12. The 2013 Agreed Order of Probation placed Applicant on a one (1) year probation, included a civil penalty of Two Hundred Fifty Dollars (\$250.00), required Applicant to complete a Three (3) hours of continuing education in ethics, and required Applicant to follow Kentucky Insurance Code. (Department's Exhibit 3)
13. The 2013 Agreed Order of Probation also provided that if Applicant failed to "follow the terms and conditions of his probation or has any other violations of the Kentucky Insurance Code during probation, his license will be revoked without further action". (Department's Exhibit 3)
14. Applicant testified that he could not recall receiving a copy of the Agreed Order of Probation. (Hearing Transcript, p. 23)
15. However, Applicant signed the Agreed Order of Probation. (Department's Exhibit 3)
16. Applicant testified that the signature above his name block on the Agreed Order of Probation, is in fact his signature. (Hearing Transcript, p. 33)
17. Applicant testified that he read over the Agreed Order of Probation. (Hearing Transcript, p. 33-34)

18. Additionally, Applicant testified that his address under the Certificate of Service, was the address that he was living at during the time when he signed the 2013 Agreed Order of Probation. (Hearing Transcript, p. 37-38)
19. On September 3, 2013, the Kentucky Department of Insurance revoked “Kentucky Insurance License for failing to follow the terms and conditions of his probation or had any other violations of the Kentucky Insurance Code”. (Department’s Exhibit 4)
20. The September 3, 2013, Order of Revocation from the Kentucky Department of Insurance stated “that the Kentucky Commissioner may revoke an insurance license for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere”. (Department’s Exhibit 4)
21. The September 3, 2013, Order of Revocation from the Kentucky Department of Insurance had Applicant’s address under the Certificate of Service as the same address from the Agreed Order of Probation. (Department’s Exhibit 4)
22. Applicant testified that he could not recall receiving a copy of the 2013 Order of Revocation. (Hearing Transcript, p. 23-24)
23. Applicant also testified that “the main fact was that . . .it was never brought up. It was never an issue, so I just – didn’t disclose that part”. (Hearing Transcript, p. 24-25)
24. Applicant admitted four (4) exhibits at the hearing:
 - a. Applicant’s Exhibit A is Applicant’s explanation letter to the Department, dated April 26, 2019.
 - b. Applicant’s Exhibit B is Applicant’s letter of recommendation from Ms. Marilyn Warren, dated April 26, 2019.

- c. Applicant's Exhibit C is Applicant's petition for a review hearing, dated April 30, 2019.
 - d. Applicant's Exhibit D is the Preliminary Administrative Order and Notice of Certification Denial filed on April 12, 2019.
25. The Department admitted four (4) exhibits at the hearing:
- a. The Department's Exhibit 1 was Applicant's application for Resident Navigator Certification, dated January 25, 2019.
 - b. The Department's Exhibit 2 was the November 20, 2012, Order of Revocation from the Kentucky Department of Insurance for Applicant's Kentucky Insurance License.
 - c. The Department's Exhibit 3 was the June 4, 2013, Agreed Order of Probation from the Kentucky Department of Insurance.
 - d. The Department's Exhibit 4 was the September 3, 2013, Order of Revocation from the Kentucky Department of Insurance for Applicant's Kentucky Insurance License.
26. 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 Orders and Procedures Act of the Indiana Code.
3. Indiana Code 27-19-4-5(b) states that before the Commissioner can approve an application submitted, the Commissioner shall determine whether individual meets all of the listed requirements.

4. Indiana Code 27-19-4-5(b)(2) provides that the “individual has not committed any act described in section 3 Indiana Code 27-19-4-3 of this chapter that would be grounds for denial, suspension, or revocation of certification”.
5. Indiana Code 27-19-4-3(a)(1) states that an applicant shall not provide incorrect, misleading, incomplete, or materially untrue information in an application for certification or registration.
6. Indiana Code 27-19-4-3(a)(4)(A) states that an applicant must not have had an Insurance Producer License denied, suspended, or revoked in any state.
7. Applicant has failed to meet the requirements for certification as provided in Indiana Codes 27-19-4-3(a)(1) and 27-19-4-3(a)(4)(A) due to Applicant’s Insurance Producer Revocations in the State of Kentucky, and the failure to disclose the same on Applicant’s application.
8. The Commissioner cannot approve Applicant’s application for certification pursuant to Indiana Code 27-19-4-5(b).
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 Resident Navigator Certification and, therefore, bears the burden.
10. Pursuant to Indiana Code 4-21.5-3 et seq. 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 Conclusions of Law are hereby incorporated herein as such.

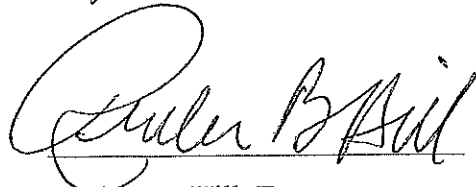
RECOMMENDED ORDER

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 denial of the Applicant's Resident Navigator Certificate under License Number 694696 shall be **AFFIRMED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 12 day of Sept, 2019.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Xavier Santiago
c/o John H. Sharpe
One Indiana Sq., Suite 3500
Indianapolis, IN 46204

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

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 18044-AD19-0401-036

IN THE MATTER OF:)
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Xavier Adamor Santiago)
1613 East Eighth St.)
Jeffersonville, IN 47130)
)
Respondent)
)
Type of Agency Action: Enforcement)
)
Application ID: 694696)

FILED

SEP 05 2019

STATE OF INDIANA
DEPT. OF INSURANCE

**RESPONDENT'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW & RECOMMENDED ORDER**

Based upon the evidence presented, Respondent Xavier Amador Santiago hereby submits his proposed Findings of Fact, Conclusions of Law, and Recommended Order in connection with the above-referenced matter.

FINDINGS OF FACT

1. On January 25, 2019, Mr. Santiago submitted an application to the Indiana Department of Insurance (the "Department") for certification as a "navigator" (Resp. Ex. D; the "Application"). A navigator assists other individuals in applying for and enrolling in a health benefit exchange or public health insurance program. Indiana Code § 27-19-2-12. Mr. Santiago had been certified by the Department as a navigator in October, 2015 and had worked in Indiana in that capacity for approximately a year and a half before taking employment elsewhere (Tr. pg. 17). A navigator's certification must be renewed annually. 760 IAC 4-3-6(a). Mr. Santiago's 2015 certification had expired and he sought a new license.

2. In the Application Mr. Santiago answered "No" to a question asking if the applicant has ever had an insurance license, navigator certification, or other professional license denied, suspended or revoked in any state.

3. Mr. Santiago was previously licensed to sell insurance in the Commonwealth of Kentucky. On November 20, 2012, the Department of Insurance of the Commonwealth of Kentucky ("KY DOI") issued an Order of Revocation of Mr. Santiago's license (State's Ex. 2; the "KY Initial Order") That order apparently was prompted by a report from Monumental Life Insurance that Mr. Santiago had been terminated from employment for "mishandled funds of policyholders." (Ibid, pg. 1). On June 4, 2013, the KY DOI issued an Agreed Order of Probation (State's Ex 3, pg. 2; the "KY Agreed Order"). The KY Agreed Order stated that Mr. Santiago had provided documentation showing that his employment had actually ended because of missing too much work but noted that he had failed to timely complete three (3) hours of continuing education. (Ibid, pg. 2). The KY Agreed Order also stated that Mr. Santiago had already completed his continuing education requirement by the date it was issued. (Ibid). The KY Agreed Order placed him on probation for one year, with the condition that he pay a penalty of \$250 within sixty (60) days. (Ibid, pg. 3). Mr. Santiago signed the KY Agreed Order but failed to pay the penalty within the prescribed period. As a result, on September 3, 2013, the KY DOI issued an Order of Revocation of Mr. Santiago's license, which order was apparently not appealed (State's Ex. 4; the "KY Final Order").

4. The Application was reviewed by Department employee Melissa Higgins (Tr., pg. 53). She noted that Mr. Santiago had not reported any prior administrative actions. In searching a database used in her work, she became aware of the activity in Kentucky and obtained copies of the KY Initial Order, the KY Agreed Order and the KY Final Order from the KY DOI (Tr. Pg. 51).

CONCLUSIONS OF LAW

11. The Commissioner of the Indiana Department of Insurance (“Commissioner”) has jurisdiction over both the subject matter and the parties to this action.

12. Indiana Code § 27-19-4-5(b) states that, before approving an application for certification as an navigator, the Commissioner must determine that the applicant has not committed an act described under Indiana Code § 27-19-4-3 that would be grounds for denial, suspension, or revocation of navigator certification.

13. For an act described in Indiana Code § 27-19-4-3, the Commissioner is authorized to take any of a number of administrative actions, which include but are not limited to denial, suspension, or revocation of an individual’s navigator certification (e.g., the Commissioner may reprimand a navigator and/or place the navigator on probation. Ind. Code § 27-19-4-3(b)(1) and (3)).

14. In this case, it appears the Department’s reviewer was strongly influenced by allegation in the initial Kentucky revocation order that Mr. Santiago had mishandled policyholder funds, and that this led to the pending recommendation of denial. However, the KY DOI subsequently determined that the mishandling allegation was wrong. It was not clear that the Department’s reviewer understood this. In fact, the sole reason that Mr. Santiago lost his Kentucky license was because he failed to pay a \$250 penalty levied on him for failing to satisfy his continuing education requirements.

15. Although Mr. Santiago should have been more thorough in answering the questions in the Application, a complete denial of his Application is unwarranted for three reasons. First, his failure to disclose the Kentucky administrative action appears to have been the result of neglect rather than intention. He was candid in disclosing in the Application misdemeanor

conviction (unrelated to his performance as a license holder). If his intent was to try to “pull the wool over the eyes” of the Department, the misdemeanor conviction might not have been reported. Second, Mr. Santiago has previously been certified by the Department as a navigator and there is no evidence of any performance problems while he held that certification. Third, the evidence indicates that he has an exceptional ability to relate to and with low-income, Spanish-speaking individuals and families in southern Indiana.

16. The Commissioner has previously exercised his discretion to resolve similar administrative actions involving nondisclosure through means other than denial of certification. A more measured sanction than denial is appropriate in this instance.

RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED:

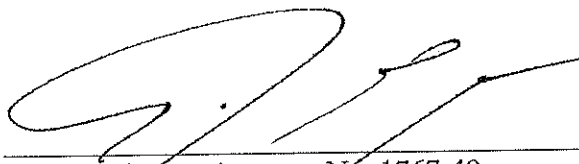
In consideration of the foregoing Findings of Fact and Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. Mr. Santiago’s application for navigator certification should be **GRANTED** on a one (1) year probationary basis.
2. Mr. Santiago shall pay a civil penalty in the amount of two hundred fifty dollars (\$250), payable within thirty (30) days from the date of this Final Order.

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

Reuben B. Hill, Esq.
Administrative Law Judge

Respectfully submitted,



John H. Sharpe, Attorney No. 1767-49

Julia Grimmer, No. 1349-49

Taft Stettinius & Hollister LLP

One Indiana Square, Suite 3500

Indianapolis, IN 46204

Telephone: 317.713.3470

jsharp@taftlaw.com

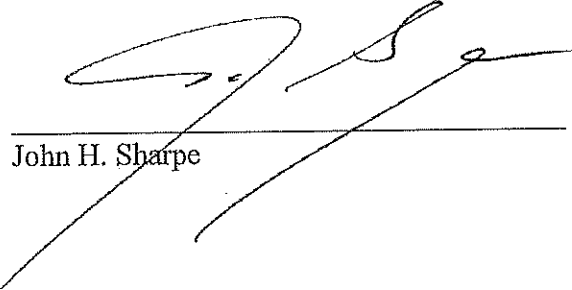
Attorney for Respondent

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was mailed, via electronic mail and United States Mail, first class, postage pre-paid, this 4th day of September, 2019, upon:

Xavier Amador Santiago
1613 East Eighth St.
Jeffersonville, IN 47130

Victoria Hastings, Attorney
Indiana Department of Insurance
Enforcement Division
311 West Washington St., Suite 103
Indianapolis, IN 46204-2787



John H. Sharpe

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
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CAUSE NO.: 18044-AD19-0401-036

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Applicant.)
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Application ID # 694696)
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Type of Agency Action: Enforcement)

FILED

AUG 29 2019

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 Xavier Amador Santiago (“Applicant”). This matter came to be heard by the ALJ on July 31, 2019, at 11:00 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, Victoria Hastings. Applicant appeared in person and by counsel, John H. Sharpe. 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 submitted his application for resident navigator certification under certificate number 694696 on January 25, 2019. (Department’s Exhibit 1)

2. Applicant failed to disclose multiple prior administrative actions on his application for certification. (Hearing Transcript, p. 7)

3. The Commissioner issued his Preliminary Administrative Order and Notice of Certification Denial on April 12, 2019, due to Applicant's administrative actions and failure to disclose same. (Applicant's Exhibit D)

4. On or around April 30, 2019, Applicant filed his petition for a review hearing. (Applicant's Exhibit C)

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7. A subsequent review hearing was scheduled for July 31, 2019.

8. On Applicant's application for certification, he answered "No" to application question that asks "Have you ever been involved in an administrative proceeding?" (Department's Exhibit 1)

9. On November 19, 2012, the Kentucky Department of Insurance revoked Applicant's Kentucky insurance producer license for the failure to respond to communication, which stemmed from a Notice of Termination that alleged fraudulent, coercive, or dishonest practices as the reason for Applicant's termination. (Department's Exhibit 2)

10. Applicant testified that he was aware of the 2012 Kentucky administrative action, and hired an attorney to deal with the matter. (Hearing Transcript, p. 20-22)

11. On June 4, 2013, the Kentucky Department of Insurance entered into an Agreed Order of Probation with Applicant. (Department's Exhibit 3)

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17. Applicant testified that he read over the Agreed Order of Probation. (Hearing Transcript, p. 33-34)

18. Additionally, Applicant testified that his address under the Certificate of Service, was the address that he was living at during the time when he signed the 2013 Agreed Order of Probation. (Hearing Transcript, p. 37-38)

19. On September 3, 2013, the Kentucky Department of Insurance revoked Applicant's Kentucky insurance license for failing to "follow the terms and conditions of his probation or had any other violations of the Kentucky Insurance Code." (Department's Exhibit 4)

20. The September 3, 2013, Order of Revocation from the Kentucky Department of Insurance stated “that the [Kentucky] Commissioner may revoke an insurance license for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere.” (Department’s Exhibit 4)

21. The September 3, 2013, Order of Revocation from the Kentucky Department of Insurance had Applicant’s address under the Certificate of Service as the same address from the Agreed Order of Probation. (Department’s Exhibit 4)

22. Applicant testified that he could not recall receiving a copy of the 2013 Order of Revocation. (Hearing Transcript, p. 23-24)

23. However, Applicant also testified that “the main fact was that . . . it was never brought up. It was never an issue, so I just – didn’t disclose that part.” (Hearing Transcript, p. 24-25)

24. Applicant admitted four (4) exhibits at the hearing:

- a. Applicant’s Exhibit A is Applicant’s explanation letter to the Department, dated April 26, 2019.
- b. Applicant’s Exhibit B is Applicant’s letter of recommendation from Ms. Marilyn Warren, dated April 26, 2019.
- c. Applicant’s Exhibit C is Applicant’s petition for a review hearing, dated April 30, 2019.
- d. Applicant’s Exhibit D is the Preliminary Administrative Order and Notice of Certification Denial filed on April 12, 2019.

25. The Department admitted four (4) exhibits at the hearing:

- a. The Department's Exhibit 1 was Applicant's application for resident navigator certification, dated January 25, 2019.
- b. The Department's Exhibit 2 was the November 20, 2012, Order of Revocation from the Kentucky Department of Insurance for Applicant's Kentucky insurance license.
- c. The Department's Exhibit 3 was the June 4, 2013, Agreed Order of Probation from the Kentucky Department of Insurance.
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26. 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 § 27-19-4-5(b) states that before the Commissioner can approve an application submitted, the Commissioner shall determine whether individual meets all of the listed requirements.

4. Indiana Code § 27-19-4-5(b)(2) provides that the “individual has not committed any act described in section 3 [Indiana Code § 27-19-4-3] of this chapter that would be grounds for denial, suspension, or revocation of certification.”

5. Indiana Code § 27-19-4-3(a)(1) states that an applicant shall not provide incorrect, misleading, incomplete, or materially untrue information in an application for certification or registration.

6. Indiana Code § 27-19-4-3(a)(4)(A) states that an applicant must not have had an insurance producer license denied, suspended, or revoked in any state.

7. Applicant has failed to meet the requirements for certification as provided in Indiana Codes §§ 27-19-4-3(a)(1) and 27-19-4-3(a)(4)(A) due to Applicant’s insurance producer revocations in the State of Kentucky, and the failure to disclose the same on Applicant’s application.

8. Therefore, the Commissioner cannot approve Applicant’s application for certification pursuant to Indiana Code § 27-19-4-5(b).

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 resident navigator certification and, therefore, bears the burden.

10. Pursuant to Indiana Code § 4-21.5-3 *et seq.* 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 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 denial of the Applicant's resident navigator certificate under license number 694696 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:

Xavier Santiago
c/o John H. Sharpe
One Indiana Sq., Suite 3500,
Indianapolis, IN 46204

Victoria Hastings, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
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STATE OF INDIANA)
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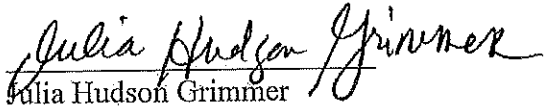
FILED

JUL 29 2019

STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF APPEARANCE

Julia Hudson Grimmer enters her appearance on behalf of Xavier Amador Santiago.


Julia Hudson Grimmer
Attorney # 31349-49

TAFT STETTINIUS & HOLLISTER LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Phone: (317) 713-3500
Fax: (317) 713-3699
Email: jgrimmer@taftlaw.com


CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was mailed, via electronic mail and United States Mail, first class, postage pre-paid, this 29th day of July, 2019, upon:

Stephen W. Robertson, Commissioner
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

Victoria Hastings, Attorney
ATTN: Melissa Higgins, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

Xavier Amador Santiago
1613 East Eighth St.
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Julia Hudson Grimmer
Taft Stettinius & Hollister LLP
One Indiana Square
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Telephone: (317) 713-3500
Facsimile: (317) 713-3699

STATE OF INDIANA)
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IN THE MATTER OF:)

Xavier Amador Santiago)
1613 East Eighth St.)
Jeffersonville, IN 47130)

Respondent)

Type of Agency Action: Enforcement)

Application ID: 694696)

FILED

JUN 06 2019

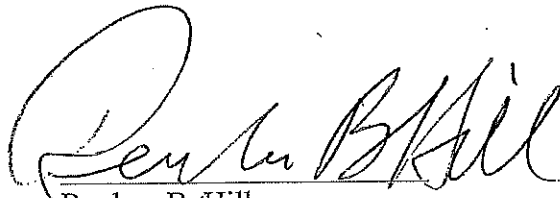
STATE OF INDIANA
DEPT. OF INSURANCE

Notice of New Hearing Date

The Administrative Law Judge now being advised of Counsel for Respondent's request for a continuance of the hearing that was scheduled for May 29, 2019 at 11:00 a.m.; now GRANTS said continuance and reset this matter for a hearing on

July 31, 2019 at 11:00 (a.m./p.m.).

So Ordered this 6th day of June, 2019.


Reuben B. Hill
Administrative Law Judge

Distribution:

Kristen L. Gentry Klos
Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, IN 46204

Victoria Hastings
311 W. Washington St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:

COUNTY OF MARION)
)

BEFORE THE INDIANA
COMMISSIONER OF
INSURANCE

Cause No.: 18044-AD19-0401-036

IN THE MATTER OF:)
)
NAVIGATOR CERTIFICATION)
APPLICATION OF:)
)
Xavier Amador Santiago)
1613 East Eighth St.)
Jeffersonville, IN 47130)
)
Applicant.)
Type of Agency Action: Enforcement)
Application ID: 694696)

FILED

MAY 23 2019

**STATE OF INDIANA
DEPT. OF INSURANCE**

MOTION FOR CONTINUANCE

Respondent, by counsel, respectfully request a continuance of the hearing in this matter presently set for May 29, 2019, as follows:

1. This matter is set for hearing on May 29, 2019.
2. Respondent's attorney, Kristen Gentry Klos, is required to be in another State for another matter on May 29, 2019 and cannot attend a hearing on May 29, 2019.
3. Respondent waives his right to a hearing within 30 days of the appeal date.
3. Respondent's counsel has conferred with IDOI's counsel, who has no objection to this Motion.

WHEREFORE, Respondent, by counsel, respectfully request that the hearing presently set for May 29, 2019, be set at a time and on a date mutually agreeable to Petitioner, and for all other relief appropriate under the premises.



Kristen L. Gentry Klos, Atty. No. 23579-49
Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Telephone: (317) 713-3504
Email: KGentryKlos@TaftLaw.com

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of May, 2019, a copy of the foregoing has been served by placing same in the U.S. Mail postage prepaid to the following:

Victoria Hastings, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
vhastings@idoi.in.gov

/s/Kristen L. Gentry Klos
Kristen L. Gentry Klos

Kristen L. Gentry Klos
Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 18044-AD19-0401-036

IN THE MATTER OF:)

Xavier Amador Santiago)
1613 East Eighth St.)
Jeffersonville, IN 47130)

Respondent.)

Type of Agency Action: Enforcement)

Application ID: 694696)

FILED

MAY 08 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 29, 2019, at 11 : 00 A.M./P.M. Eastern Time at 311 West Washington Street, Suite 103, Indianapolis, Indiana 46204-2787, to determine whether to grant Respondent's request for approval of his navigator certification.

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 granting a navigator certification is contained in Indiana Code § 27-19-4-3.

The issues to be resolved at the hearing are those described in the Preliminary Administrative Order and Notice of Certification Denial filed on April 12, 2019.

The Indiana Department of Insurance asserts that Respondent has violated Indiana Codes §§ 27-19-4-3(a)(1) and 27-19-4-3(a)(4)(A) by Applicants failure to disclose multiple administrative actions on his application which include a license probation and two (2) license revocations.

In accordance with Indiana Code § 4-21.5-3 *et seq*, 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) 232-2387

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

Indiana Department of Insurance
311 West 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:

5/8/19

Reuben B. Hill

Administrative Law Judge
Indiana Department of Insurance

This Notice has been sent to:

Victoria Hastings, Attorney
ATTN: Melissa Higgins, Sr. Insurance Investigator
Indiana Department of Insurance
Enforcement Division
311 West Washington St., Suite 103
Indianapolis, IN 46204-2787

Xavier Amador Santiago
1613 East Eighth St.
Jeffersonville, IN 47130

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

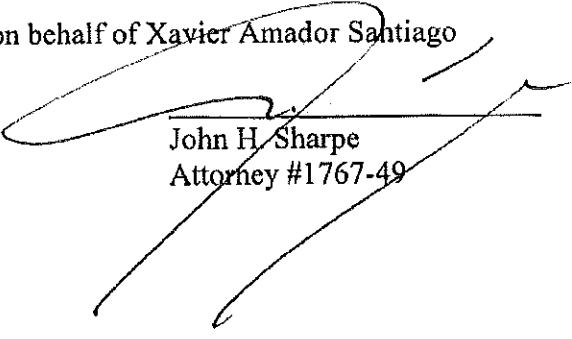
BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 18044-AD19-0401-036

IN THE MATTER OF:)
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NAVIGATOR CERTIFICATION)
APPLICATION OF:)
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Xavier Amador Santiago)
1613 East Eighth St.)
Jeffersonville, IN 47130)
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Applicant,)
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Type of Agency Action: Enforcement)
)
Application ID: 694696)

NOTICE OF APPEARANCE

John H. Sharpe enters his appearance on behalf of Xavier Amador Santiago


John H. Sharpe
Attorney #1767-49

TAFT STETTINIUS & HOLLISTER LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Phone: (317) 713-3500
Fax: (317) 713-3699
Email: jsharp@taftlaw.com


CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was mailed, via electronic mail and United States Mail, first class, postage pre-paid, this 7th day of June, 2019, upon:

Stephen W. Robertson, Commissioner
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

Victoria Hastings, Attorney
ATTN: Melissa Higgins, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

Xavier Amador Santiago
1613 East Eighth St.
Jeffersonville, Indiana 47130



John H. Sharpe
Taft Stettinius & Hollister LLP
One Indiana Square
Suite 3500
Indianapolis, Indiana 46204
Telephone: (317) 713-3500
Facsimile: (317) 713-3699

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 18044-AD19-0401-036

IN THE MATTER OF:)
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NAVIGATOR CERTIFICATION)
APPLICATION OF:)
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Applicant.)
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Type of Agency Action: Enforcement)
)
Application ID: 694696)

FILED

APR 12 2019

STATE OF INDIANA
DEPT. OF INSURANCE

**PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF CERTIFICATION 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 §27-19-4, hereby gives notice to Xavier Amador Santiago (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for certification with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on January 25, 2019.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code §27-19-4-3 and Indiana Code §27-19-4-5.
3. Indiana Code §27-19-4-3(a)(1) provides, in part, that if a person is a navigator, they shall not provide uncorrected, misleading, incomplete, or materially untrue information in an application for certification or registration.
4. Indiana Code §27-19-4-3(a)(4)(A) provides, in part, that if a person is a navigator, must not had an insurance producer license denied, suspended, or revoked in any state, province, district, or territory.

5. 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 §27-19-4-3(a)(1) and §27-19-4-3(a)(4)(A) due to his failure to disclose three (3) administrative actions on his application for licensure taken by the State of Kentucky which include a license probation and two (2) license revocations.
5. Should Applicant wish for the Commissioner to review this decision, Applicant must, within fifteen (15) days after receiving notice of this Order, file a written petition with the Commissioner. This petition must state facts demonstrating that Applicant:
- (A) is a person to whom this Order is specifically directed;
 - (B) is aggrieved or adversely affected by this Order; or
 - (C) is entitled to review under any law
6. If a petition for review is granted, the Department shall assign the matter to an administrative law judge to conduct informal proceedings to settle the matter.

IT IS THEREFORE ORDERED that the Applicant's request for certification is hereby DENIED pursuant to Indiana Codes §27-19-4-3(a)(1) and §27-19-4-3(a)(4)(A) due to Applicant's failure to disclose administrative actions on his application.

4-12-2019

Date Signed

Distribution:

Xavier Amador Santiago
1613 East Eighth St.
Jeffersonville, IN 47130



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Victoria Hastings, 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