

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 18369-AD19-0716-072

IN THE MATTER OF:

Oscar A. Jaramillo
2408 S Wilson St.,
Amarillo, TX 79103

Applicant.

Type of Agency Action: Enforcement

Application ID: 722155

FILED

FEB 28 2020

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On December 31, 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 a nonresident 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 28 day of February 2020.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Oscar A. Jaramillo
2408 S Wilson St.,
Amarillo, TX 79103

Victoria Hastings, Attorney
Indiana Department of Insurance
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License Number: 722155

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DEC 31 2019

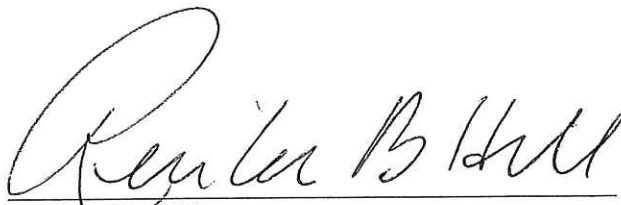
STATE OF INDIANA
DEPT. OF INSURANCE

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: 12/31/19


Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Oscar A. Jaramillo)
2408 S. Wilson St.)
Amarillo, TX 79103)

Applicant.)

Type of Agency Action: Enforcement)

License Application # 722155)

CAUSE NO.: 18369-AD19-0716-072

**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 Oscar A. Jaramillo ("Applicant"). This matter came on to be heard by the ALJ on November 13, 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, 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 Non-Resident Producer License on July 12, 2019.
2. Applicant previously held Indiana Non-Resident Producer License from February 9, 2006 to February 28, 2010, when he failed to renew. (Department's Exhibit 1) Hearing Transcript, p. 32-33)
3. On August 28, 2006, Applicant was denied Non-Resident Producer License in the State of Wisconsin for failing to respond to the Commissioner's requests for information. (Department's Exhibit 2)
4. Applicant did not report this license denial to the Department until he submitted his July 12, 2019 application. (Hearing Transcript, p. 23)
5. On June 1, 2007, Applicant's Non-Resident Producer License was revoked in the State of South Dakota due to his failure to disclose the aforementioned 2006 Wisconsin License Denial to the South Dakota Division of Insurance. (Department's Exhibit 3)
6. Applicant did not report this license revocation to the Department until he submitted his July 12, 2019 application. (Hearing Transcript, p. 38)
7. Applicant testified that he was unaware of the Wisconsin Insurance Commissioner's attempts to contact him or the South Dakota revocation proceedings due to having failed to update his mailing address with each department. (Hearing Transcript, p. 22-25)
8. Applicant further testified that he similarly did not update his address with the Indiana Department of Insurance. (Hearing Transcript, p. 23)

9. On August 31, 2007, Applicant was criminally charged in his home State of Texas with Assault Causing Bodily Injury, a Class A Misdemeanor. (Department's Exhibit 5)
10. The victim was the mother of Applicant's child, with whom he was cohabitating at the time. (Applicant's Exhibit G) Transcript, p. 26)
11. Applicant waived arraignment on the charges on May 16, 2008, and was adjudicated guilty on March 25, 2011. (Department's Exhibits 4 and 5) Hearing Transcript, p. 24)
12. Applicant did not report this criminal prosecution to the Department until he submitted his July 12, 2019 application. (Hearing Transcript, p. 38)
13. Applicant testified that he did not report these two (2) administrative actions taken against him in Wisconsin and South Dakota and Texas criminal charges while he previously held Indiana Non-Resident Producer License because "at the time whenever I began my insurance procedure, I was not aware of like the procedure and just the severity of everything like I do now". (Hearing Transcript, p. 23)
14. Applicant called one (1) witness at the hearing, Michael Lively, who testified that Applicant is not the same person he was when he was previously licensed with the Department. The witness further testified he has only known Applicant approximately seven (7) months. (Hearing Transcript, p. 27-29)
15. Applicant admitted six (6) exhibits at the hearing. Applicant's Exhibits B-D1 are character reference letters from his friend his sister, and his reverend, respectively. Applicant's Exhibit E is a flyer from an organization with which Applicant is involved. Applicant's Exhibit F is his current Wisconsin Producer License, and Applicant's Exhibit G is a letter from Applicant with his March, 2007 lease agreement attached.

16. 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 issue or renew an Insurance Producer License, due to a number of factors.
4. Indiana Code 27-1-15.6-12(b)(2)(A) allows the Commissioner to refuse to issue or renew an Insurance Producer License for violating an insurance law.
5. Indiana Code 27-1-15.6-17(a) is an insurance law that states that a producer shall report to the Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter.
6. Applicant had two (2) administrative actions taken against him while previously holding Indiana Non-Resident Producer License: A Wisconsin License Denial in 2006, and a South Dakota License Revocation in 2007.
7. Applicant did not report either action to the Department at any point during his previous period of licensure.
8. Applicant's alleged ignorance of the actions taken against him due to his relocation and failure to update his address with the involved insurance departments, including Indiana an additional violation of insurance law 2 does not excuse his violation.

9. Indiana Code 27-1-15.6-17(b) is an insurance law that states that a producer shall report to the Commissioner any criminal prosecution in an jurisdiction not more than thirty (30) days after the initial pretrial hearing date.
10. Applicant waived arraignment on May 16, 2008, indicating awareness of the charges against him, but did not report this criminal prosecution to the Department at any point during his previous period of licensure.
11. 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.
12. Applicant's March 25, 2011 criminal conviction for Assault Causing Bodily Injury demonstrates coercive practices in violation of Indiana Code 27-1-15.6-12(b)(8).
13. Indiana Code 27-1-15.6-12(b)(9) allows the Commissioner to refuse to issue or renew an Insurance Producer License for having an Insurance Producer License denied, suspended, or revoked in any other state, province district or territory.
14. Applicant's South Dakota License was revoked in 2007 and has not be reinstated.
15. 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 hi a Non-Resident Producer License and, therefore, bears the burden.
16. 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.

17. 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's Non-Resident Producer License shall be

AFFIRMED.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of Insurance** this 31st day of December, 2020.¹⁹



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

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Amarillo, TX 79103

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FILED

SEP 13 2019

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 Oscar A. Jaramillo (“Applicant”) of the following Administrative Order:

1. Applicant was previously licensed as a nonresident producer with the Indiana Department of Insurance from February 9, 2006 to February 28, 2010, under license number 487742.
2. Applicant filed an application to reactivate his nonresident producer licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on July 12, 2019.
3. 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.
4. Indiana Code § 27-1-15.6-12(b)(8) provides, in part, that the Commissioner may refuse to issue an insurance producer’s 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. Indiana Code § 27-1-15.6-12-(b)(9), provides, in part that the Commissioner may refuse to issue an insurance producer's license for having an insurance producer's license or its equivalent, denied, suspended, or revoked in any other state, province, district or territory.
6. Indiana Code § 27-1-15.6-12(b)(2)(A) provides, in part, that the Commissioner may refuse to issue a producer's license for violating an insurance law.
7. Indiana Code § 27-1-15.6-17(a), states a producer shall report to the Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter.
8. Indiana Code § 27-1-15.6-17(b), states 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.
9. Following a review of public records and 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 Codes §§ 27-1-15.6-12(b)(8) and 27-1-15.6-12(b)(2)(A) due to his March 25, 2011 conviction for Assault Causing Bodily Injury, a Class A Misdemeanor, out of Texas and his failure to timely report the charges to the Department while previously licensed.
10. Following a review of public records and 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 Codes §§ 27-1-15.6-12(b)(9) and 27-1-15.6-12(b)(2)(A) due to his August 28, 2006 Denial Order

issued by the Wisconsin Office of the Commissioner of Insurance and his June 1, 2007 license revocation issued by the South Dakota Division of Insurance, and his failure to timely report these actions to the Department while previously licensed.

11. 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 Codes §§ 27-1-15.6-12(b)(8), 27-1-15.6-12(b)(9), and 27-1-15.6-12(b)(2)(A) due to Applicant's misdemeanor conviction, two (2) administrative actions, and his failure to timely report the same to the Department. Applicant may reapply for licensure not less than one (1) year from the date of this order.

9-13-2019

Date Signed


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution to:

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