

STATE OF INDIANA

COUNTY OF MARION

) SS:
)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:

Grant Smith
1528 W Main Street
Carmel, IN 46032

Petitioner

Type of Agency Action: Enforcement

License Application Number: 822299

FILED

NOV 08 2021

**STATE OF INDIANA
DEPT. OF INSURANCE**

CAUSE NO.: DOI-0521-001048
19968-AD21-0222-036

FINAL ORDER

On August 5, 2021, the Administrative Law Judge, Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Default Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Default Order and Notice of Filing Recommended Default Order on Petitioner 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 Default 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 Default Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Refusal to issue Petitioner's resident producer license under application number 822299 is **AFFIRMED**.

Under Ind. Code §4-21.5-5-5, Petitioner 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 November, 2021.



Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Grant Smith
1528 W Main Street
Carmel, IN 46032

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

RECOMMENDED ORDER

Pursuant to IC 4-21.5 this Recommended Order is not final and shall be presented to the ultimate authority for issuance of a final order.



FILED: August 5, 2021

STATE OF INDIANA OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DOI-0521-001048

Underlying/State Agency Action No.: 19968-AD21-0222-036

Final Agency Authority: Commissioner of the Department of Insurance

Grant Smith
Petitioner,

v.

Indiana Department of Insurance
Respondent.

Type of Agency Action: Enforcement

License Number: 822299

FINDINGS OF FACT, CONCLUSIONS OF LAW

AND RECOMMENDED DEFAULT ORDER

Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Victoria Hasting. This matter came to be heard by ALJ on June 3, 2021, at 10:00 a.m. via audio conferencing. Petitioner failed to appear. 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 Default Order.

FINDINGS OF FACT

1. Petitioner submitted an application to the Department for a Resident Producer License on or about October 23, 2020. (Department's Exhibit 1)
2. Petitioner failed to disclose his pending criminal charges on his application for license. (Department's Exhibits 1 and 3)
3. On or about June 7, 2019, Petitioner was charged in Marion County Superior Court, Indiana with the following: Resisting Law Enforcement, a Level 6 Felony; Resisting Law Enforcement, a Class A Misdemeanor; and Refusing to leave Emergency Incident Area, a Class A Misdemeanor. (Department's Exhibit 2)
4. Petitioner's 2020 application reads, "have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?" (Department's Exhibit 1)
5. Petitioner answered the above question in the negative. (Department's Exhibit 1)
6. Petitioner's 2020 application reads, "have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?" (Department's Exhibit 1)
7. Petitioner answered the above question in the negative. (Department's Exhibit 1)
8. Petitioner submitted his application for license at the time criminal charges were pending out of Marion County Superior Court, Indiana.
9. Petitioner would have needed to disclose his pending misdemeanor charges and his pending felony charge on his application for license in Indiana.
10. The Commissioner of the Indiana Department of Insurance ("Commissioner") filed the Preliminary Administrative Order and Notice of License Denial on April 28, 2021, due to Petitioner's failure to disclose his pending criminal charges. (Department's Exhibit 3)
11. Petitioner made his request for an evidentiary hearing on or about May 3, 2021.
12. An evidentiary hearing was scheduled and held on June 3, 2021, at 10:00 a.m. EST via audio conferencing at the Indiana Department of Insurance.
13. A default hearing was held.
14. Petitioner received proper notice for the hearing via U.S. Postal mail.
15. Petitioner failed to appear for the hearing.
16. Petitioner never contacted the Department following the hearing.
17. Petitioner never informed the Department about what happened, or why he failed to appear for the hearing.

18. Petitioner never requested that the hearing be re-scheduled.
19. Petitioner never reached out to the Department requesting that the hearing be re-scheduled, or provide an explanation as to why Petitioner failed to appear or the hearing.
20. Department admitted three (3) exhibits at the hearing. Department's Exhibit 1 was Petitioner's Indiana application for license. Department's Exhibit 2 was Petitioner's chronological case summary. Department's Exhibit 3 was the Preliminary Administrative Order and Notice of License Denial.
21. 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. The 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)(1), states, in part, that the Commissioner may refuse to issue or renew an Insurance Producer License for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
5. Petitioner was charged with two (2) misdemeanors and a felony in June of 2019 in Marion County, Indiana and submitted an application in October of 2020, wherein Petitioner failed to disclose his pending misdemeanor and felony charges, in violation of Indiana Code 27-1-15.6-12(b)(1).
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. Petitioner is requesting that the Department issue a Resident Producer License and, therefore, bears the burden.
7. Pursuant to Indiana Code 4-21.5-3-24, at any stage of a proceeding, if a part fails to attend or participate in a pre-hearing conference, hearing, or other stage of the proceeding, the ALJ may serve upon all parties written notice of a proposed default or dismissal order, including a statement of the grounds. This Proposed Default Order serves as that notice.
8. Petitioner failed to appear for the hearing.
9. Pursuant to Indiana Code 37-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision. Petitioner failed to meet his burden of proving the Commissioner's decision was unreasonable.

10. Findings of Fact that can be adopted as Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED DEFAULT 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 Petitioner's Resident Producer License under License Application Number 822299 be **AFFIRMED**.

ALL OF WHICH FOUND by the Administrative Law Judge and recommended to the **Commissioner of Insurance** on August 4, 2021. **This Recommended Default Order is not final.**

This matter is now before the ultimate authority, the Commissioner of Insurance who has the final authority over this matter and shall review this Recommended Default Order and issue a final order to all parties.

To preserve an objection to this order for judicial review, the Parties must object to the order in writing that: 1) Identifies the basis for the objection with reasonable particularity; and 2) Is filed with the ultimate authority, the Commissioner of the Department of Insurance, within eighteen (18) days from the date of this Order.

Any questions regarding this matter may now be directed to Dawn Bopp at dbopp@idoi.in.gov.

/s/Reuben B. Hill
Reuben B. Hill, Esq.
Administrative Law Judge

Distributed to Parties:

Grant Smith – Petitioner and served by U.S. Postal Mail at: 1528 W Main Street, Carmel, IN 46032.

Victoria Hastings – Respondent's Attorney; served by email to the email address on file with the Indiana Roll of Attorneys, Vhastings@idoi.in.gov.

Attn: Calla Dain, Insurance Investigator Indiana Department of Insurance, Enforcement Division, 311 West Washington St., Suite 103, Indianapolis, IN 46204-2787

IDOI Commissioner – Ultimate Authority and served by Dawn Bopp at dbopp@idoi.in.gov

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 19968-AD21-0222-036

IN THE MATTER OF:)

Grant I. Smith)
8602 Lake Clearwater Lane, Apt. 315.,)
Indianapolis, IN 46240)

Applicant.)

Type of Agency Action: Enforcement)

License Application #: 822299)

FILED

APR 28 2021

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 Grant I. Smith ("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 October 29, 2020.
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)(1) provides, in part, that the Commissioner may refuse to issue an insurance producer's license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
4. Following a review of public records, 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)(1) due to his failure to disclose his pending June 7, 2019

criminal charges, which includes Refusing to Leave Emergency Incident Area, a Class A Misdemeanor, Resisting Law Enforcement Intentionally Flees, a Class A Misdemeanor, and Resisting Law Enforcement Causes Bodily Injury, a Level 6 Felony.

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.
6. This is considered an agency action. This action has been initiated by the aforementioned authority. If you choose to appeal this agency action, the State of Indiana Office of Administrative Law Proceedings ("OALP") will assign an administrative law judge to preside over this matter, and subsequently you will be contacted by the OALP with more information to begin the administrative process.

IT IS THEREFORE ORDERED that Applicant's request for licensure is hereby DENIED pursuant to Indiana Code § 27-1-15.6-12(b)(1) due to Applicant's failure to disclose pending criminal charges on his application for licensure. Applicant may reapply for licensure not less than one (1) year from the date of this order.

4-28-2021

Date Signed



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution to:

Grant I. Smith
8602 Lake Clearwater Lane, Apt. 315.,
Indianapolis, IN 46240

Victoria Hastings, Attorney
ATTN: Calla Dain, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-8687, fax 317 234-2103