STATE OF INDIANA) SS: COUNTY OF MARION)

BEFORE THE INDIANA COMMISSIONER OF INSURANCE

FILED
DEC 20 2021
STATE OF INDIANA
DEPT. OF INSURANCE

IN THE MATTER OF:

Wendell Estelle
3645 Morningside Dr.
Greenwood, IN 46143

Petitioner

Type of Agency Action:Enforcement

CAUSE NO.: DOI-0721-001386
20477-AD21-0408-066

FINAL ORDER

On October 14, 2021, 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 and Notice of Filing Recommended 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 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 Petitioner's resident producer license under license application number 852905 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 20 day of December, 2021.

Amy L Beard

Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Wendell Estelle
3645 Morningside Dr.
Greenwood, IN 46143

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: October 14, 2021

STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DOI-0721-001386
Underlying/State Agency Action No.: DOI-20447-AD21-0408-066

Final Agency Authority: Commissioner of the Department of Insurance

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Wendell Estelle
Petitioner,

v.

Indiana Department of Insurance
Respondent.

Type of Agency Action: Enforcement

License Application Number: 852905

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER

Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Victoria Hastings. This matter came to be heard by ALJ on August 12, 2021, at 10:00 a.m. via audio conferencing. Petitioner failed to appear for the August 12, 2021, hearing. 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 around March 18, 2021. (Department's Exhibit 1)

2. Jay Wendell Estelle and Wendell Estelle are the same individual, Petitioner. (Hearing Transcript, p. 15-16)

3. Petitioner was convicted on January 7, 2021, for Domestic Battery, a Class A Misdemeanor; Battery a Class B Misdemeanor; and Invasion of Privacy, a Class A Misdemeanor. (3,5, and 7)

4. Petitioner failed to disclose his criminal history on his application for license. (Department's Exhibit 1)

5. Petitioner submitted his application for license approximately two (2) months after convictions for Domestic Battery, Battery, and Invasion of Privacy.

6. Petitioner answered the question that pertains to having any misdemeanor convictions in the negative on his application for license.

7. Petitioner was the individual that filled out his application. (Hearing Transcript, p. 14-15, Department's Exhibit 1)

8. Petitioner was that individual that submitted his application. (Hearing Transcript, p. 14-15, Department's Exhibit 1)

9. Petitioner submitted his application under the penalty of perjury. (Hearing Transcript, p. 14-15, Department's Exhibit 1)

10. Petitioner would have needed to disclose his criminal history on his application for license. (Hearing Transcript, p. 18-19, Department's Exhibit 1)

11. The Commissioner of the Indiana Department of Insurance ("Commissioner") filed her Preliminary Administrative Order and Notice of License Denial on June 22, 2021, due to Petitioner's criminal history and for his failure to disclose the same on his application for license. (Department's Exhibit 8)

12. On or about July 12, 2021, Petitioner made his request for an evidentiary hearing.

13. An evidentiary hearing was scheduled and held on August 12, 2021, at 10:00 a.m. EDT via audio conferencing.

14. Petitioner failed to appear for the August 12, 2021, hearing.

15. A Default Hearing was held on August 12, 2021.

16. Petitioner received proper notice for the August 12, 2021, hearing via U.S. Postal Mail. (Hearing Transcript, p. 11-12)

17. Petitioner failed to timely contact the Department following the August 12, 2021, hearing.

18. Petitioner failed to timely inform the Department about what happened, or why he failed to appear for the hearing.

19. Department submitted eight (8) exhibits at the hearing. Department's Exhibit 1 was Petitioner's Indiana application for license. Department's Exhibits 2 through 7 were court records from Petitioner's criminal cases. Department's Exhibit 8 was the Preliminary Administrative Order and Notice of License Denial.

20. 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. Indiana Code 27-1-15.6-12(b)(8), states, in part, that the Commissioner may refuse to issue or 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.

6. Petitioner has three (3) misdemeanor convictions and failed to disclose the same on his application for license, in violation of Indiana Code 27-1-15.6-12.

7. Petitioner was convicted on January 7, 2021, for Domestic Battery, a Class A Misdemeanor; Battery, a Class B Misdemeanor; and Invasion of Privacy a Class A Misdemeanor, in violation of Indiana Code 27-1-15.6-12(b)(8).

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. Petitioner is requesting that the Department issue him a Resident Producer License and, therefore, bears the burden.

9. Pursuant to Indiana Code 4-21.5-3-24, at any stage of a proceeding, if a party fails to attend or participate in a prehearing conference, hearing, or other state of the proceeding, the ALJ may serve upon all parties written Notice of a Proposed Default Order serves as that notice.

10. Petitioner failed to appear for the August 12, 2021, hearing.

11. Pursuant to Indiana Code 27-1-15.6-12(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.

12. 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 Petitioner's Resident Producer License under License Application Number 852905 be **AFFIRMED.**

ALL OF WHICH FOUND by the Administrative Law Judge and recommended to the **Commissioner of Insurance** on October 14, 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 for the Final Order, 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:

Wendell Estelle
3645 Morningside Drive
Greenwood, IN 46143

Victoria Hastings, Attorney
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	)	**BEFORE THE INDIANA COMMISSIONER OF INSURANCE**
	) SS:	
COUNTY OF MARION	)	**CAUSE NO.: 20477-AD21-0408-066**
IN THE MATTER OF:	)	
	)	
Wendell Estelle	)	
3645 Morningside Dr.,	)	
Greenwood, IN 46143	)	
	)	
Applicant.	)	
	)	
Type of Agency Action: Enforcement	)	
	)	
License Application #: 852905	)	

FILED
JUN 22 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 Wendell Estelle ("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 March 18, 2021.
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)(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.

4. 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.

5. 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 Codes §§ 27-1-15.6-12(b)(8) and 27-1-15.6-12(b)(1) due to his January 7, 2021 convictions for Domestic Battery, a Class A Misdemeanor; Battery, a Class B Misdemeanor; and Invasion of Privacy, a Class A Misdemeanor; and for Applicant's failure to disclose the same on his application for licensure.

6. 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.

7. 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 Codes §§ 27-1-15.6-12(b)(8) and 27-1-15.6-12(b)(1) due to Applicant's criminal history and failure to disclose it on his application. Applicant may reapply for licensure not less than one (1) year from the date of this order.

6/22/21
Date Signed

Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution to:

Wendell Estelle
3645 Morningside Dr.,
Greenwood, IN 46143

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