

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

DOI CAUSE NO: 20542-AD21-0507-081
ADMINISTRATIVE CAUSE NO.: DOI-0921-001965

IN THE MATTER OF:)
)
Ryan Perkins)
8259 Dogwood Cir. East Dr.)
Indianapolis, IN 46268)
)
Petitioner.)
)
License Application #: 862360)
)
Type of Agency Action: Enforcement)

FILED
MAR 10 2022
STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

1. On January 10, 2022, the Administrative Law Judge, Ann Pagonis, filed her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

2. Counsel for the Department timely filed an objection with the Commissioner regarding the Administrative Law Judge’s Findings of Fact, Conclusions of Law and Recommended Order.

3. The ultimate authority shall issue a final order affirming, modifying, or dissolving the administrative law judge’s order under Ind. Code § 4-21.5-3-29.

Therefore, the Commissioner of Insurance, being fully advised, now hereby issues the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. All Paragraphs set forth in the “Findings of Fact” section in the Recommended Order are adopted in full and incorporated herein.

CONCLUSIONS OF LAW

1. Paragraphs 1, 2, 3, 4, 5, 6, 10, 11, and 13 of the “Conclusions of Law” section in the Recommended Order are adopted in full and incorporated herein.

2. Paragraph 7 of the “Conclusions of Law” section in the Recommended Order is modified to state that, “Merriam-Webster dictionary defines conduct as ‘a mode or standard of personal behavior especially as based on moral principles.’ Because the incident giving rise to the misdemeanor convictions occurred in a Walmart retail store, they occurred in the conduct of business. Petitioner demonstrated untrustworthiness in the conduct of business in Indiana in violation of Indiana Code 27-1-15.6-12(b)(8).”

3. Paragraph 12 of the “Conclusions of Law” section in the Recommended Order is modified to state that, “A hearing was held to determine the reasonableness of the Commissioner’s decision pursuant to Indiana Code 27-1-15.6-12(d). Petitioner met his burden of proof in demonstrating that the Commissioner’s Preliminary Administrative Order and Notice of License Denial should be overturned.”

4. Paragraphs 8 and 9 of the “Conclusions of Law” section in the Recommended Order are stricken in their entireties.

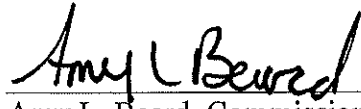
FINAL ORDER

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The preliminary denial of Applicant’s Indiana resident insurance producer’s license is reversed.
2. Petitioner’s application for an Indiana resident insurance producer’s license is hereby GRANTED.

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 10 day of March, 2022.



Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Ryan Perkins
Petitioner
Ryan.perkins@live.com

Victoria Hastings
Counsel for Respondent, Indiana Department of Insurance
vhastings@idoi.in.gov

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

DOI CAUSE NO: 20542-AD21-0507-081
ADMINISTRATIVE CAUSE NO.: DOI-0921-001965

IN THE MATTER OF:)
)
Ryan Perkins)
8259 Dogwood Cir. East Dr.)
Indianapolis, IN 46268)
)
Petitioner.)
)
License Application #: 862360)
)
Type of Agency Action: Enforcement)

FILED
JAN 24 2022
STATE OF INDIANA
DEPT. OF INSURANCE

DEPARTMENT’S OBJECTIONS TO RECOMMENDED ORDER

Comes now the Enforcement Division of the Indiana Department of Insurance (“Department”) by counsel, Samantha Aldridge, to object to the Administrative Law Judge’s Findings of Fact, Conclusions of Law and Recommended Order (“Recommended Order”) filed on January 10, 2022, and in support of such objections shows the Commissioner the following:

1. On July 19, 2021, the Commissioner of the Indiana Department of Insurance issued her Preliminary Administrative Order and Notice of License Denial (“Denial Order”) against Ryan Perkins due to Mr. Perkins’ criminal history.
2. On October 13, 2021, a telephonic evidentiary hearing (“Hearing”) was held to determine whether the Denial Order of Ryan Perkins’ (“Petitioner”) application for a resident insurance producer license was reasonable.

3. On January 10, 2022, the Administrative Law Judge issued her Findings of Fact, Conclusions of Law, and Recommended Order (“Recommended Order”) in this matter.

4. The Department objects to the Recommended Order Conclusions of Law caption, paragraphs four (4), seven (7), eight (8), and nine (9).

5. The caption section of the Recommended Order lists “License Number 862360”. This case concerns a resident producer application and as such the correct label for the identification number 862360 is “License Application Number”. To the extent the Petitioner’s License Application Number is mislabeled, as the Petitioner is not licensed in the State of Indiana, the Department objects.

6. The “Conclusions of Law” section of the Recommended Order in paragraph four (4) states:

“Practices” describes a pattern of conduct or more than one instance of behavior. *Id.* An isolated incident of dishonesty does not meet the statutory language of Indiana Code 27-1-15.6-12(b)(8) because a single act cannot be construed as “practices.” Furthermore, “reading the statute to reach isolated instances of dishonesty would also render meaningless other subsections” of Code 27-1-15.6-12(b). *Id.*

7. The term “practices” is undefined under Indiana Code § 27-1-15.6-12(b). It is erroneous to have a conclusion of law citing to a term that is undefined under Indiana Code § 27-1-15.6-12(b) and under Indiana Code Title 27.

8. The citations in paragraph four (4) are to Indiana Code § 27-1-15.6-12(b)(8), which neither provides a definition for the term “practices” nor does Indiana Code § 27-1-15.6-12(b)(8) contain the language in quotations in paragraph four (4). To the extent the Administrative Law Judge finds that a single incident of dishonesty is not a practice and does not meet the statutory requirements and to the entire contents of paragraph four

(4) being attributed to the language of Indiana Code § 27-1-15.6-12(b)(8), the Department objects.

9. The “Conclusions of Law” section of the Recommended Order in paragraph seven (7) states, “A single act, not occurring in the insurance business and which is not a pattern of deceit or series of practices, is not a statutory ground for discipline. *Id.* Such an act is not a legal basis for license denial under Indiana Code 27-1-15.6-12(b)(8).”

10. Petitioner was convicted on July 24, 2020 of Theft, A Misdemeanor. (Department’s Exhibits 1 and 2)

11. Indiana Code § 27-1-15.6-12(b)(8) explicitly does not include the term “insurance business”. The violation need not be during the practice of insurance business, but rather the conduct of any type of business. “No word or part of the statute should be rendered meaningless if it can be reconciled with the rest of the statute,” See *Indiana Alcohol & Tobacco Commission v. Spirited Sales, LLC*, 79 N.E.3d 371, 376 (Ind. 2017) (citing *West v. Indiana Secretary of State*, 54 N.E.3d 349, 353 (Ind. 2016), which cited *Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825, 828 (Ind. 2011).

12. Petitioner admits while shopping at a Walmart store, Petitioner placed unscanned items into a shopping bag and left the store intentionally without paying. (Hearing Transcript p. 20) A business transaction is an agreement between the buyer (here, Petitioner), and the seller (here, Walmart), to exchange goods in return for money. The Petitioner and the victim are engaged in the conduct of business - shopping, -when Petitioner exercised unauthorized control over the goods of Walmart. To the extent the Administrative Law Judge finds “business” must be insurance business under Indiana Code § 27-1-15.6-12(b)(8), the Department objects.

13. The “Conclusions of Law” section of the Recommended Order in paragraph eight (8) states, “Petitioner’s misdemeanor conviction arose from a single incident that did not occur in the insurance business and does not constitute ‘practices.’”

14. Petitioner admits to exercising unauthorized control over multiple items from Walmart; to draw a conclusion that theft of several items does not indicate “practices” because the acts arose from a single date is unsupported. Petitioner made the decision to conceal each individual item, a practice repeated on each piece of merchandise or as a collective set of practices in plural. Petitioner’s dishonest practices need not be spread over the course of multiple days or weeks to be considered dishonest practices. To the extent the Administrative Law Judge found Petitioner’s criminal conviction stemming from the theft of multiple items does not constitute “practices” under Indiana Code § 27-1-15.6-12(b)(8), the Department objects.

15. The “Conclusions of Law” section of the Recommended Order in paragraph nine (9) states, “There are many reasons for denying a license, including felony convictions. The Petitioner was convicted of a misdemeanor, which is not a listed permissible reasons [*sic*] to deny a license application. Indiana Code 27-1-15.6-12(b).”

16. Indiana Code § 27-1-15.6-12(b) does not state that misdemeanor convictions cannot be considered when deciding whether to deny a license. When a misdemeanor conviction involves dishonest practices and/or demonstrates untrustworthiness in the conduct of business in Indiana or elsewhere it is imperative the Commissioner review said conviction in accordance with the Commissioner’s authority under Indiana Codes § 27-1-15.6 *et seq.*

17. Petitioner was not denied licensure based on having a misdemeanor conviction. Petitioner was denied licensure given the nature of his criminal conviction involving theft of several items while engaged in a business transaction with Walmart. To the extent the Administrative Law Judge found Petitioner's misdemeanor conviction resulting from dishonest and untrustworthy practices during the conduct of business is not a basis to deny a license application under Indiana Code § 27-1-15.6-12(b), the Department objects.

18. This Objection is being filed with the Commissioner within fifteen (15) days from the date of the filing of the Recommended Order pursuant to Indiana Code § 4-21.5-3-29(d).

WHEREFORE, the Department's Enforcement Division by its counsel, initiates this Objection to the Recommended Order proposed by the Administrative Law Judge and respectfully requests that the Commissioner adopt Findings of Fact and Conclusions of Law consistent with these objections.

Respectfully submitted,

/s/ Samantha Aldridge
Samantha Aldridge, Attorney No. 35162-49
Department of Insurance

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Objection to Recommended Order has been served upon Petitioner in the above-captioned proceeding via email on this 24th day of January 2022.

Ryan Perkins
8259 Dogwood Cir. East Dr.
Indianapolis, IN 46268

/s/ Samantha Aldridge
Samantha Aldridge, Attorney No. 35162-49
Department of Insurance

Distribution:

Ryan Perkins
8259 Dogwood Cir. East Dr.
Indianapolis, IN 46268

Samantha Aldridge, Attorney
INDIANA DEPARTMENT OF INSURANCE
311 W. Washington St., Suite 300
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 20542-AD21-0507-081

IN THE MATTER OF:)

Ryan Perkins)
8259 Dogwood Cir. East Dr.,)
Indianapolis, IN 46268)

FILED

JUL 19 2021

Applicant.)

STATE OF INDIANA
DEPT. OF INSURANCE

Type of Agency Action: Enforcement)

License Application #: 862360)

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 Ryan Perkins (“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 April 25, 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 a 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.
4. 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 § 27-1-15.6-12(b)(8) due to Applicant's criminal history, which includes a conviction from July 24, 2020, for Theft, a Class A Misdemeanor.

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)(8) due to Applicant's criminal history, which includes a recent conviction for Theft, a Class A Misdemeanor. Applicant may reapply for licensure not less than one (1) year from the date of this order.

7/19/21
Date Signed


Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution to:

Ryan Perkins
8259 Dogwood Cir East Dr
Indpls, IN 46268

Victoria Hastings, Attorney
ATTN: Phil Holleman, Sr. Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-5885, fax 317 234-2103
