

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
SS: COMMISSIONER OF INSURANCE

DOI CAUSE NO: 20685-AD21-0728-116
ADMINISTRATIVE CAUSE NO.: DOI-0821-001797

IN THE MATTER OF:)

Angela Hodges)
4122 Hickory Knoll Drive)
Indianapolis, IN 46203)

Petitioner.)

License Application #: 873450)

Type of Agency Action: Enforcement)

FILED

FEB 11 2022

STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

On December 15, 2021, the Administrative Law Judge, Ann Pagonis, filed her Findings of Fact, Conclusions of Law, and Recommended Order in the above-captioned matter. 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.

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. Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9 of 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, 7, 8, 9, and 10 of the "Conclusions of Law" section in the Recommended Order are adopted in full and incorporated herein.

2. Paragraph 6 of the "Conclusions of Law" section in the Recommended Order is is stricken in its entirety.

FINAL ORDER

IT IS THEREFORE ORDERED by the Commissioner of Insurance that the denial of Petitioner's resident producer license under license application number 873450 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 11 day of February, 2022.

A handwritten signature in black ink, reading "Amy L. Beard". The signature is written in a cursive style with a large, stylized "B".

Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Angela Hodges
4122 Hickory Knoll Drive
Indianapolis, IN 46203

Victoria Hastings, Attorney
INDIANA DEPARTMENT OF INSURANCE
311 W. Washington St., Suite 300
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: December 15,
2021

STATE OF INDIANA OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DOI-0821-001797
Underlying/State Agency Action No.: 20685-AD21-0728-116

Final Agency Authority: Commissioner of the Department of Insurance

Angela Hodges
Petitioner,

v.

Indiana Department of Insurance
Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

An evidentiary hearing was held on this matter on September 28, 2021, at 10:00 am EST via audio conferencing. Administrative Law Judge Ann Pagonis ("ALJ"), having heard, reviewed, and considered all of the evidence, now renders a decision concerning the matter of Angela Hodges ("Petitioner").

Petitioner appeared telephonically and pro se. The Enforcement Division of the Indiana Department of Insurance ("Respondent") was represented by counsel, Victoria Hastings.

Petitioner testified on her own behalf in a narrative style and did not offer any exhibits.

Respondent called Calla Dain as a witness and offered five (5) exhibits that were admitted into the record without objection and identified as Respondent's Exhibits (RX) 1 through 5.

- RX 1 is the Petitioner's three (3) page application for a Resident Insurance Producer License ("license").
- RX 2 is an eight (8) page chronological case summary of Petitioner's misdemeanor case.
- RX 3 is a two (2) page sentencing order from Petitioner's misdemeanor case.
- RX 4 a one (1) alternative misdemeanor sentencing order from the Petitioner's misdemeanor case.
- RX 5, is a three (3) page preliminary administrative order and notice of license denial that was issued by the Respondent to the Petitioner and that the Petitioner appealed, giving rise to the present matter.

Based upon the evidence presented at said hearing, the ALJ now makes and issues the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. On June 24, 2015, Petitioner was convicted of four (4) counts of Theft: Receiving Stolen Property. Each count was originally charged as a Class D Felony, but each of the counts

was later reduced to a Class A Misdemeanor through alternative misdemeanor sentencing. (RX 2, RX 3, RX 4, and Transcript pages 16, 17, and 36-39.)

2. The misdemeanor convictions arose from an incident that occurred while Petitioner was working as an employee at Walmart. While she was on the clock, Petitioner accepted a gift certificate or voucher for a spa day valued at \$400 (voucher) from a Walmart customer, which was against Walmart company policy. In such a situation, Walmart company policy is for employees to refuse gifts that are valued over \$25 unless a manager approves. (Transcript pages 13, 23, and 26.)
3. Petitioner did not know that she had done anything wrong until she was approached by Walmart management in February of 2014, more than two (2) months after petitioner accepted the voucher. At that time, Petitioner still had possession of the voucher and she turned it in to Walmart management. (RX 2, Transcript pages 26, and 28-31.)
4. As a sentence for the misdemeanors, Petitioner was ordered to probation for one (1) year, to attend and satisfactorily complete a retail theft program, and to pay restitution of \$400 to Walmart in addition to relinquishing the voucher to Walmart. (Transcript pages 30-31 and 36-39.)
5. Petitioner successfully completed probation. (Transcript page 28.)
6. On or about June 15, 2021, Petitioner applied for an Indiana Resident Insurance Producer License (license). (Transcript page 16.)
7. Petitioner disclosed the misdemeanor convictions on her license application. (RX 1, Transcript pages 34-35.)

8. The Commissioner denied Petitioner's application for the license on the grounds that Petitioner's criminal history includes four theft misdemeanor convictions from June of 2015. (RX2, RX 3, RX 4, RX 5, and Transcript page 41.)
9. Conclusions of Law that can be adopted as Findings of Fact are incorporated 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. IC 27-1-15.6-12(d); IC 4-15-10.5-12; IC 4-15-10.5-13.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, IC 4-21.5-3. IC 27-1-15.6-12(d).
3. Indiana Code 27-1-15.6-12(b) states, in part, that the Commissioner may refuse to issue a license due to several factors. The Respondent cites one of these factors as the reason for license denial: the Commissioner may refuse to issue a 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 under Indiana Code 27-1-15.6-12(b)(8).
4. The misdemeanor convictions arose from a single incident and therefore do not indicate "practices." Indiana Code 27-1-15.6-12(b)(8)

5. The Petitioner was acting in the conduct of business at the time that incident that resulted in the misdemeanor convictions occurred, which violates Indiana Code 27-1-15.6-12(b)(8).
6. Petitioner's misdemeanor convictions may qualify for expungement under Indiana Code 35-38-9-2. Instructions for filing pro se may be found at <https://www.indy.gov/activity/second-chance-law> or Petitioner may hire an attorney to help her.
7. Indiana Code 4-21.5-3-14(c) states that the person requesting an agency act has the burden of persuasion and the burden of going forward. Petitioner is requesting that the Department grant her a license and, therefore, she bears the burden.
8. Pursuant to Indiana Code 27-1-15.6-12(d), a hearing was held to determine the reasonableness of the Commissioner's decision.
9. The denial of Petitioner's license was reasonable because the Petitioner has misdemeanor convictions arising from an incident that occurred while she was working, meaning she was conducting business. These misdemeanor convictions could reasonably be construed to demonstrate incompetence, untrustworthiness, or financial irresponsibility in the conduct of business. Petitioner did not meet the burden of showing that the license denial was unreasonable.
10. 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** that the denial of Petitioner's resident producer license under license application number 873450 be **AFFIRMED**.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of Insurance** on December 15, 2021. **This recommended 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 order then issue a final order to all parties.

To preserve an objection to this order for judicial review, you must object to the order in a writing that: 1) identifies the basis for your objection with reasonable particularity; and 2) is filed with the ultimate authority, the Commissioner of the Department of Insurance, within fifteen (15) days from the date of this Order. IC 4-21.5-3-29

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



Ann Pagonis
Administrative Law Judge

Distributed to Parties:

Indiana Department of Insurance – Respondent, served by Counsel Victoria Hastings by E-Mail at vhastings@idoi.in.gov

Angela Hodges – Petitioner, served by Mail at 4122 Hickory Knoll Drive, Indianapolis, IN 46203

Distributed to Non-Party:

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.: 20685-AD21-0728-116

IN THE MATTER OF:)

Angela K. Hodges)
4122 Hickory Knoll Dr.,)
Indianapolis, IN 46203)

Applicant.)

Type of Agency Action: Enforcement)

License Application #: 873450)

FILED

AUG 11 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 Angela K. Hodges ("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 June 15, 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. Following a review of public records and documents submitted by Applicant in support of her application, the Commissioner, being fully advised, now hereby notifies Applicant that

she has not fully met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b)(8) due to her four (4) June 24, 2015, convictions for Theft; Receiving Stolen Property, 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. Applicant may reapply for licensure not less than one (1) year from the date of this order.

8/11/21
Date Signed



Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution to:

Angela K. Hodges
4122 Hickory Knoll Dr.,
Indianapolis, IN 46203

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