

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
)
)
Michael Kaim)
)
Petitioner)
)
Type of Agency Action:Enforcement)
)

FILED

AUG 29 2022

STATE OF INDIANA
DEPT. OF INSURANCE

CAUSE NO.: DOI-1021-002097
20797-AD21-0805-120

FINAL ORDER

On December 8, 2021, the Administrative Law Judge, Rueben 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 emailing 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. Denial of Petitioner's resident producer license application number 886186 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 29 day of August, 2022.


Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Michael Kaim
18202 Sunbrook Way
Westfield, IN 46074

Samantha Aldridge, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
saldridge@idoi.in.gov



FILED: Dec 8, 2021

**STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

Administrative Cause No.: DOI-1021-002097

Underlying/State Agency Action No.: 20797-AD21-0805-120

Final Agency Authority: The Commissioner of the Department of Insurance

Michael Kaim

Petitioner,

v.

Department of Insurance

Respondent.

Issued: December 8, 2021

Type of Agency Action: Enforcement

License Application #: 886186

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED DEFAULT ORDER**

Administrative Law Judge (“ALJ”) Reuben Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Michael Kaim (“Applicant”). This matter came to be heard by the ALJ on November 3, 2021, at 10:00 a.m. via audio conferencing at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance (“Department”) was represented by counsel, Samantha Aldridge. Applicant 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. Applicant submitted an application to the Department for a resident producer license on or around July 26, 2021. (Department's Exhibit 3)
2. On or around September 18, 2018, Applicant pled guilty to and was convicted of Deprivation of Rights Under Color of Law as a Class A Misdemeanor, in the United States District Court, Southern District of Indiana. (Department's Exhibit 1)
3. Applicant was police officer employed with the Veterans Affairs Medical Center Police Department at the time of his offense. (Department's Exhibit 2)
4. While in the course of his employment, on or about April 18, 2017, Applicant shoved and repeatedly punched a patient-employee whom he was in the process of arresting. (Department's Exhibits 1 and 2)
5. Applicant was sentenced to 12 months imprisonment and fine of \$1,000. (Department's Exhibit 1)
6. The Commissioner of the Indiana Department of Insurance ("Commissioner") filed her Preliminary Administrative Order and Notice of License Denial on August 20, 2021, due to Applicant's criminal history, specifically Applicant's September 18, 2018 conviction for Deprivation of Rights Under Color of Law as a Class A Misdemeanor, in the United States District Court, Southern District of Indiana.
7. On or around October 12, 2021, Applicant made his request for an evidentiary hearing to the Department. (Hearing Transcript p. 11)
8. Applicant had previously requested a hearing directly through the Office of Administrative Law Proceedings which already set a hearing date prior to the October 12, 2021 request to the Department.
9. An evidentiary hearing was scheduled and held on November 3, 2021, at 10:00 a.m. EDT via audio conferencing at the Indiana Department of Insurance.

10. Applicant failed to appear for the November 3, 2021, evidentiary hearing.
11. A default hearing was held.
12. Applicant received proper notice for the November 3, 2021, hearing via U.S. Postal mail.
13. Applicant never contacted the Department following the November 3, 2021, hearing.
14. Applicant never informed the Department about what happened, or why he failed to appear for the November 3, 2021, hearing.
15. Applicant never requested the November 3, 2021, hearing be re-scheduled.
16. Department admitted three (3) exhibits at the hearing. Department's Exhibit 1 is the Judgement in Case Number 1:18CR000197-001. Department's Exhibit 2 is the United States Department of Justice Press Release dated September 18, 2018. Department's Exhibit 3 is the Department's Preliminary Administrative Order and Notice of License Denial.
17. 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's license, due to a number of factors.
4. 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.

5. Applicant's September 18, 2018, conviction for Deprivation of Rights Under Color of Law as a Class A Misdemeanor, in the United States District Court, Southern District of Indiana, is in violation of Indiana Code § 27-1-15.6-12(b)(8).

6. While in a position of power and trust within the federal government, the Applicant abused his position as a law enforcement officer when he used excessive force on a patient-employee at the Veteran Affairs Medical Center.

7. 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 him a resident producer license and, therefore, bears the burden.

8. 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 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.

9. Applicant failed to appear for the November 3, 2021, hearing.

10. 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.

11. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED DEFAULT
ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner the following:

1. The refusal to issue Applicant's resident producer license under license application #886186 be AFFIRMED.

SO ORDERED: December 8, 2021

/S/ Reuben B. Hill

Hon. Reuben B. Hill
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distributed to Parties:

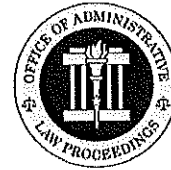
Indiana Department of Insurance – Respondent, served by Counsel Samantha Aldridge by E-Mail at saldridge@idoi.in.gov
Michael Kaim – Petitioner, served by U.S. Postal Mail at 18202 Sunbrook Way, Westfield, IN 46074

Additional Distribution to Non-Party:

Dawn Bopp – Non-Party, Administrator for the Indiana Department of Insurance served as at DBopp@idoi.in.gov for purposes of scheduling a court reporter as needed for any hearing.



STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS



Filed October 6, 2021

Administrative Cause No.: DOI-1021-002097

Underlying/State Agency Action No.: 20797-AD21-0805-120

Final Agency Authority: The Commissioner of the Department of Insurance

Michael Kaim
Petitioner,

Issued: October 6, 2021

v.

Department of Insurance
Respondent.

**NOTICE OF ASSIGNMENT OF ADMINISTRATIVE LAW JUDGE, NOTICE OF FILING PROCEDURES,
and ORDER SETTING EVIDENTIARY HEARING**

This complaint has been presented to the Office of Administrative Law Proceedings for review. An Administrative Law Judge (ALJ) has been assigned to preside over your case and is the **Honorable Reuben B. Hill**.

This Notice also informs you of how you may file documents with the ALJ and contact the OALP while your case is pending. **Incorrectly addressed filings may not be processed correctly, resulting in the failure to file.**

1. Your administrative cause number is listed at the top of this Notice.
2. File documents electronically at OALP@oalp.IN.gov; or
File Documents by postal mail at:

Office of Administrative Law Proceedings
Attn: []
100 N. Senate Ave., Rm. N-802
Indianapolis, IN 46204

3. Each Party should serve documents on ALL parties to the case.
4. Any exhibits filed with OALP will be file stamped but considered Proposed Exhibits only until formally tendered during an evidentiary hearing and either admitted or not by the ALJ.

5. Parties should redact sensitive, non-relevant information from any documents which they file with the ALJ. (Examples: social security numbers, confidential trade secrets.)
6. *Ex parte* contact – whether direct or indirect communication with an adjudicator and regarding any issue in the pending proceeding without notice and opportunity for all Parties to participate in the communication – is forbidden by law.

How parties will receive orders from the ALJ:

1. Parties with valid email addresses filed with OALP will receive electronic service of documents from “ALP Support Team” with the subject “ALP EService”. The link is only valid for 21 days.
 - a. Note: Attorney email addresses sync with the Indiana Roll of Attorneys. Attorneys must update their “E-notification and E-service” email address.
2. Parties with mailing address only will receive service through U.S. Postal Mail.

Questions Concerning document filings/motions may be directed to OALP support staff at: OALP@oalp.IN.gov or by appearing at the address provided.

ORDER SETTING EVIDENTIARY HEARING

Notice is hereby given, pursuant to Indiana Code § 4-21.5-3 *et seq.*, that an audio-only evidentiary hearing will be held on this matter. The hearing will be conducted in accordance with the provisions of the Administrative Orders and Procedures Act, codified at Indiana Code § 4-21.5-3 *et seq.*

Should either party wish to have a pre-hearing conference prior to the evidentiary hearing, then the party may submit a motion requesting a pre-hearing conference. Upon receipt of motion for a pre-hearing conference, the ALJ shall schedule a pre-hearing conference pursuant to IC § 4-21.5-3-18. Such request may serve as a waiver of any requirement to have the evidentiary hearing within a certain number of days.

EVIDENTIARY HEARING INFORMATION

The date of the evidentiary hearing is: **Wednesday, November 3, 2021**

The evidentiary hearing will begin at: **10:00 EDT.**

The hearing will be conducted as: **Audio Only via Microsoft Teams Conference Line**

Details for Conference Line:

Dial Call in Phone Number: 317-552-1674

Enter Conference ID: 596 974 216#

The Parties are not prohibited from contacting the other to resolve the case prior to a hearing. A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of the proceeding, may be held in default or have a proceeding dismissed under Indiana Code § 4-21.5-3-24.

SO ORDERED: October 6, 2021

/s/ Reuben B. Hill

Hon. Reuben B. Hill
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distributed to Parties:

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

Michael Kaim – Petitioner, served by U.S. Postal Mail at 18202 Sunbrook Way, Westfield, IN 46074

Additional Distribution to Non-Party:

Dawn Bopp – Non-Party, Administrator for the Indiana Department of Insurance served as at DBopp@idoi.in.gov for purposes of scheduling a court reporter as needed for any hearing.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 20797-AD21-0805-120

IN THE MATTER OF:)

Michael Kaim)
18202 Sunbrook Way,)
Westfield, IN 46074)

Applicant.)

Type of Agency Action: Enforcement)

License Application #: 886186)

FILED

AUG 23 2021

STATE OF INDIANA
DEPT. OF INSURANCE

AMENDED PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

The Indiana Department of Insurance ("Department"), 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 Michael Kaim ("Applicant") of the following Amended Administrative Order:

1. Applicant submitted an application for resident producer licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on July 26, 2021.
2. On said application, Applicant disclosed that on or around September 18, 2018, he was convicted on one (1) count in the United States District Court, Southern District of Indiana, of Deprivation of Rights Under Color of Law.
3. On August 20, 2021, the Commissioner issued a Preliminary Administrative Order and Notice of License Denial against Applicant due to Applicant's criminal history, and mistakenly cited to Indiana Code § 27-1-15.6-12(b)(6) as the basis for the denial.

4. The August 20, 2021, Preliminary Administrative Order and Notice of License Denial incorrectly listed Applicant's criminal conviction as a felony conviction.
5. The Enforcement Division received confirmation that Applicant's September 17, 2018, conviction for Deprivation of Rights Under Color of Law, is a Class A Misdemeanor.
6. 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.
7. Indiana Code § 27-1-15.6-12(b)(8) provides, in part, that the Commissioner may refuse to issue 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.
8. Following a review of public records and the materials submitted by the Applicant, 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, specifically, Applicant's September 18, 2018, conviction for Deprivation of Rights Under Color of Law, a Class A Misdemeanor.
9. 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 applicant's application is mailed, make written demand to the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action.
10. 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, including his conviction for Deprivation of Rights Under Color of Law, a Class A Misdemeanor. Applicant may reapply for licensure not less than one (1) year from the date of this order.

8/23/21
Date Signed

Amy L. Beard
Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Michael Kaim
18202 Sunbrook Way,
Westfield, IN 46074

Victoria Hastings, Attorney
ATTN: Steven A. Embree, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-5883, Fax 317 234-2103