

STATE OF INDIANA)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
)
)
Benita Dixon)
)
Petitioner)
)
Type of Agency Action:Enforcement)
)

FILED

SEP 30 2022

STATE OF INDIANA
DEPT. OF INSURANCE

CAUSE NO.: DOI-2204-000702
21239-AD22-0202-024

FINAL ORDER

On August 2, 2022, the Administrative Law Judge, Ann Pagonis, filed her 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 her email 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 943498 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 30 day of September, 2022.


Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Benita Dixon-bedixon@geico.com

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

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 2, 2022

STATE OF INDIANA OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Administrative Cause No.: DOI-2204-000702

Underlying/State Agency Action No.: 21239-AD22-0202-024

Final Agency Authority: Commissioner of the Department of Insurance

Benita Dixon,
Petitioner,

Type of Agency Action: Enforcement

License Application No.: 943498

v.

Indiana Department of Insurance,
Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

An evidentiary hearing was held on this matter on July 14, 2022, at 10:00 am Eastern (Indianapolis) time via telephonic conference. Benita Dixon ("Petitioner") did not appear to the evidentiary hearing and the Department of Insurance ("Respondent") appeared by counsel Samantha Aldridge. The undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings (OALP) began the hearing at about 10:20 am EST, at which time, Respondent moved for Petitioner to be defaulted. The ALJ has considered the motion, and hereby GRANTS Respondent's motion based on the following findings of fact and conclusions of law.

FINDINGS OF FACT¹

1. In the *Combined Notice of ALJ and Filing Procedures and Order Setting Evidentiary Hearing* ("Order") issued on April 27, 2022, an evidentiary hearing by telephonic conference was scheduled for May 26, 2022, at 10:00 am EDT.
2. On May 26, 2022, the ALJ continued the hearing *sua sponte* because there was a typo on some of the documents that were served to Petitioner, although Petitioner was invited to a calendar event by email that had the correct login information.
3. Petitioner failed to appear at the second evidentiary hearing scheduled in this matter for June 3, 2022, which Petitioner was invited to by a calendar event sent by email. The ALJ also emailed Petitioner and Respondent the conference login information on the morning of the hearing and ALJ waited 19 (nineteen) minutes past the scheduled start time of the June 3, 2022, evidentiary hearing before beginning.
4. Respondent notified the ALJ in an ex parte communication² on June 6, 2022 that she did not attend the June 3, 2022 hearing because she had a migraine. Finding that reason sufficient, the ALJ reset the evidentiary hearing for a third time for July 14, 2022.
5. The Order Resetting Evidentiary Hearing that scheduled the third setting of the evidentiary hearing for 10:00 am Eastern time July 14, 2022 was served to Petitioner by email on June 16, 2022. Petitioner was again invited to a calendar event with the conference login information.
6. On July 14, 2022, OALP support staff emailed the Petitioner and Respondent the login information for the evidentiary hearing at about 10:10 am Eastern time, which was 10 minutes past the start time of the hearing. The ALJ waited approximately 10 more minutes before commencing the evidentiary hearing at 10:20 am. Petitioner did not appear.
7. No motion to continue the evidentiary hearing was filed, and there is no information that indicating that service of the Order was not perfected on Petitioner.
8. The Parties were notified in the Combined Notice of ALJ and Filing Procedures and Order Setting Evidentiary Hearing issued by the undersigned ALJ on April 27, 2022, in the Order Continuing Evidentiary Hearing issued on May 26, 2022, and in the Order Resetting Evidentiary Hearing issued on June 16, 2022, that "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."

¹ Findings of fact that should be conclusions of law and conclusions of law that should be findings of fact are hereby incorporated as such.

² See Notice of Ex Parte Communication and Opportunity to Respond issued by the ALJ on June 8, 2022.

9. The Parties were notified in the June 16, 2022 Order Resetting Evidentiary Hearing that, “[a]bsent extraordinary circumstances, no further requests for continuances will be granted.”
10. A *Notice of Proposed Default Order* (“Notice”) was issued on July 14, 2022.
11. In the Notice, a seven (7) day deadline for Petitioner to file a motion for the case to remain open was set.
12. Twelve (12) days have passed since the missed deadline. Petitioner did not meet the deadline. There was no motion to continue the deadline, and there is no indication that service of the Notice was not perfected on Petitioner.

CONCLUSIONS OF LAW

1. A Party may be held in default when a Party fails to “to attend or participate in a pre-hearing conference, hearing, or other later stage of the proceeding.” Indiana Code 4-21.5-3-24.
2. The person requesting that an agency act has the burden of persuasion and the burden of going forward. Indiana Code 4-21.5-3-14(c). Petitioner requested that the Respondent issue a license, therefore Petitioner bears the burden of proof.
3. Petitioner failed to attend three (3) evidentiary hearings scheduled in this matter and therefore did not present evidence. Holding Petitioner in default is appropriate pursuant to Indiana Code 4-21.5-3-24(a)(4).
4. The ALJ issued a *Notice of Proposed Default Order* as required by Indiana Code 4-21.5-3-24; however, Petitioner did not file any response to it. Indiana Code 4-21.5-3-24(b).
5. The ALJ now issues this Default Order. Indiana Code 4-21.5-3-24.

RECOMMENDED DEFAULT ORDER

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 the Department of Insurance** that the denial of Benita Dixon’s request for a resident producer license under license application number 943498 shall be AFFIRMED.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of the Department of Insurance** on August 2, 2022. **This recommended order is not final.**

This matter is now before the ultimate authority, the Commissioner of the Department 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 Samantha Aldridge by E-Mail at saldridge@idoi.in.gov

Benita Dixon – Petitioner, served by E-Mail at BeDixon@geico.com

Additional Distribution to Non-Party:

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

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 21239-AD22-0202-024

IN THE MATTER OF:

Benita Dixon
5118 Gray Wood Court
Indianapolis, IN 46235

Applicant.

Type of Agency Action: Enforcement

License Application #: 943498

FILED
MAR 21 2022
STATE OF INDIANA
DEPT. OF INSURANCE

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 Benita Dixon (“Applicant”) of the following Administrative Order:

1. Applicant submitted an application for resident insurance producer licensure with the Commissioner of the Indiana Department of Insurance (“Commissioner”) on January 24, 2022.
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)(6) authorizes the Commissioner to deny a producer license for having been convicted of a felony.
4. Following a review of public records, 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)(6), due to Applicant's November 7, 2016, conviction for Operating While Intoxicated: Prior Conviction, a Level 6 Felony, from the State of Indiana.

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 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.
6. This is considered an administrative action by the Indiana Department of Insurance. If you choose to appeal this administrative action, please follow the aforementioned instructions. Subsequently, after the Department has received your written request for a hearing, the State of Indiana Office of Administrative Law Proceedings ("OALP") will assign an administrative law judge to preside over this matter, and you will receive more information from OALP 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)(6), due to Applicant's criminal history, which includes a felony conviction. Applicant may reapply for licensure not less than one (1) year from the date of this order.

3/21/22
Date Signed



Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution to:

Benita Dixon
5118 Gray Wood Court
Indianapolis, IN 46235

Samantha Aldridge, Attorney
ATTN: Kimberly Stowers, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-8687, fax 317 234-2103