

STATE OF INDIANA )  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

IN THE MATTER OF: )  
)  
)  
Zavier Toran Turner )  
)  
Petitioner )  
)  
Type of Agency Action:Enforcement )  
)

**FILED**

**SEP 26 2023**

STATE OF INDIANA  
DEPT. OF INSURANCE

CAUSE NO.: DOI-2303-000868  
22081-AD23-0109-006

**FINAL ORDER**

On August 4, 2023, the Administrative Law Judge, Carrie T. Ingram, filed her Findings of Fact, Conclusions of Law and Non-Final Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Non-Final Order and Notice of Filing Non-Final Order on Petitioner by emailing the same to his 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 Non-Final 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 Non-Final Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Denial of Petitioner's resident producer license application 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 26 day of September, 2023.

  
Amy L. Beard, Commissioner  
Indiana Department of Insurance

Copies to:

Zavier Toran Turner served by email at [ztturner26@gmail.com](mailto:ztturner26@gmail.com)

Samantha Aldridge, Attorney  
Indiana Department of Insurance  
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STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

**FILED:** Aug 4, 2023

Zavier Toran Turner  
Petitioner

Administrative Case No.: DOI-2303-000868

v.

Department of Insurance  
Respondent

Ultimate Authority: Commissioner of the Department of Insurance

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND NONFINAL ORDER**

An evidentiary hearing was held on this matter on May 16, 2023, at 9:00 AM via telephonic conference. Administrative Law Judge (ALJ) Carrie Ingram presided over the hearing. At the evidentiary hearing, Xavier Toran Turner appeared telephonically. The Department of Insurance (DOI) appeared telephonically by Counsel Samantha Aldridge, and Investigator Hana Biele.

Zavier Toran Turner, Natalie Whittingham, and Hana Biele testified at the evidentiary hearing. Petitioner offered no exhibits for admission and Respondent offered four exhibits for admission at the evidentiary hearing. The following exhibits were admitted at the evidentiary hearing:

1. Respondent's Exhibit 1, Petitioner's application for a resident insurance producer license, 2 page, admitted over Petitioner's objection.
2. Respondent's Exhibit 2, Plea Agreement for case number 49D21-2102-F2-004609, 3 pages, admitted without objection.
3. Respondent's Exhibit 3, Sentencing Order and Order of Probation for case number 49D21-2102-F2-004609, 3 pages, admitted without objection.
4. Respondent's Exhibit 4, Petitioner's request for administrative review, 1 page, admitted without objection.

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

## FINDINGS OF FACT<sup>1</sup>

1. On or about December 27, 2022, Petitioner applied for a resident producer license with DOI. See Exhibit 1
2. In Petitioner's application, he certified that he had not been convicted of a misdemeanor. Petitioner skimmed the question when he filled out the application and incorrectly answered the question. See testimony of Petitioner and Exhibit 1.
3. On or about July 21, 2021, Petitioner was convicted of Dealing in Marijuana, a Class A Misdemeanor. See Exhibit 3.

## CONCLUSIONS OF LAW<sup>2</sup>

1. DOI is responsible for licensing insurance producers who practice in the State of Indiana. Ind. Code § 27-1-15.6
2. OALP has jurisdiction over both the subject matter and the parties to this action and the Commissioner of DOI is the ultimate authority. Ind. Code § 27-1-15.6-12(d); Ind. Code §§ 4-15-10.5-12 and 13.
3. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, Ind. Code § 4-21.5-3. Ind. Code § 27-1-15.6-12(d).
4. The person requesting an agency act has the burden of persuasion and the burden of going forward. Ind. Code § 4-21.5-3-14(c). Petitioner requests that DOI issue a license, therefore Petitioner bears the burden of proof.
5. Proceedings held before an ALJ are *de novo*, which means the ALJ does not—and may not—defer to an agency's initial determination. Indiana Code § 4-21.5-3-14(d); *Ind. Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993). Instead, in its role as factfinder, the ALJ must independently weigh the evidence in the record and may base findings and conclusions only upon that record. *Id.* At a minimum, the ALJ's findings "...must be based upon the kind of evidence that is substantial and reliable." Indiana Code § 4-21.5-3-27(d). "[S]ubstantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support the decision..." *St. Charles Tower, Inc. v. Bd. of Zoning Appeals*, 873 N.E.2d 598, 601 (Ind. 2007).
6. Despite the *de novo* review, Indiana Code 27-1-15.6-12(d) limits the ALJ's review to a determination of whether the Commissioner's actions were reasonable.

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<sup>1</sup> Conclusions of Law that can be adopted as Findings of Fact are incorporated as such.

<sup>2</sup> Findings of Fact that can be adopted as Conclusions of Law are incorporated as such.



7. An application for a resident insurance producer license may be denied for “providing incorrect, misleading, incomplete, or materially untrue information in a license application.” Ind. Code § 27-1-15.6-12(b)(1).
8. Petitioner’s application contained incorrect and materially untrue information about his misdemeanor conviction.
9. It was reasonable for Petitioner’s application to be denied due to his failure to disclose his misdemeanor conviction on his application.
10. Petitioner has not met his burden of proving that the Commissioner’s decision not to issue him a license was unreasonable.

#### **NONFINAL ORDER**

In consideration of the foregoing, Findings of Fact and the Conclusions of Law as stated, the ALJ now recommends that the Commissioner AFFIRM her decision to deny Petitioner’s application for a resident producer license.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of the Department of Insurance on August 4, 2023. This 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 Nonfinal 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, the Commissioner of the Department of Insurance, within fifteen (15) days from the date of this Order. Indiana Code 4-21.5-3-29. For provisions on how to compute days see Ind. Code § 4-21.5-3-2.

Any questions regarding this matter may now be directed to Dawn Bopp at [dbopp@idoi.in.gov](mailto:dbopp@idoi.in.gov).

So Ordered: August 4, 2023.



Carrie T. Ingram  
Administrative Law Judge  
Indiana Office of Administrative Law Proceedings

Distribution:

Petitioner: Xavier Toran Turner served by email at [ztturner26@gmail.com](mailto:ztturner26@gmail.com)

Respondent: Department of Insurance served by email to Attorney Samantha Aldridge at [saldridge@idoi.in.gov](mailto:saldridge@idoi.in.gov)

Ultimate Authority: Commissioner of the Department of Insurance served by email at [DBopp@idoi.in.gov](mailto:DBopp@idoi.in.gov)

COUNTY OF MARION

) SS:  
)

**FILED**

APR 24 2023

STATE OF INDIANA  
DEPT. OF INSURANCE

Zavier Toran Turner

Petitioner

Type of Agency Action: Enforcement )

CAUSE NO.: DOI-2303-000868  
22081-AD23-0109-006

Under Ind. Code 4-21.5-3-29(b), the Commissioner of Insurance, Amy L. Beard, hereby remands this matter to the Administrative Law Judge for the purposes of holding an evidentiary hearing on the reasonableness of the Preliminary Administrative Order and Notice of License Denial, filed on February 2, 2023, with respect to Petitioner's application for a resident producer license.

ALL OF WHICH IS ORDERED by the Commissioner this 24 day of April, 2023.

Amy Beard

Amy L. Beard, Commissioner  
Indiana Department of Insurance

Copies to:

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Samantha Aldridge, [saldridge@idoi.in.gov](mailto:saldridge@idoi.in.gov)

OALP, [oalp@oalp.in.gov](mailto:oalp@oalp.in.gov)

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO.: 22081-AD23-0109-006

IN THE MATTER OF: )

Zavier Toran Turner )  
4736 Haven Lake Road Apt B )  
Indianapolis, IN 46280 )

Applicant. )

Type of Agency Action: Enforcement )

License Application #: 1026896 )

**FILED**

**FEB 02 2023**

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 Xavier Toran Turner ("Applicant") of the following Administrative Order:

1. Applicant submitted an application for resident producer licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on December 27, 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)(1) provides, in part, that the Commissioner may refuse to issue an insurance producer license for providing incorrect, misleading, incomplete, or materially untrue information in a license application.
4. 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)(1), due to Applicant's failure to disclose a misdemeanor conviction from July 21, 2021, for Dealing in Marijuana, a Class A Misdemeanor, in the State of Indiana.

4. 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.
5. 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)(1), due to Applicant's failure to disclose his criminal history on his application for licensure. Applicant may reapply for licensure not less than one (1) year from the date of this order.

02-02-2023  
Date Signed

  
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Amy L. Beard, Commissioner  
Indiana Department of Insurance

Distribution:

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