

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
)
)
Carla Evette Reddy)
)
)
Petitioner)
)
Type of Agency Action:Enforcement)
)

CAUSE NO.: DOI-2211-002487
21962-AD22-1103-116

FILED
MAY 04 2023
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On April 11, 2023, the Administrative Law Judge, Brian D Hahn, filed his 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 mailing the same to her 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. Petitioner's 18 U.S.C. § 1033 waiver is approved.

2. Petitioner's resident producer license application number 973186 is Granted.

3. Petitioner is on probation for a period of two (2) years. During probation period, Petitioner is to submit a current list of appointments to the Department every six (6) months from the date of this order via email at: enforcement@idoi.in.gov.

4. During probationary period, any violations of Title 27 of the Indiana Code will result in revocation of Petitioner's license.

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 4 day of May, 2023.



Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Carla Evette Reddy-Petitioner
2012 N Riley Avenue
Indianapolis, IN 46218

Samantha Aldridge, Attorney
Indiana Department of Insurance
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NONFINAL ORDER

Pursuant to IC 4-21.5 this Nonfinal Order is not final and shall be presented to the ultimate authority for issuance of a final order.



FILED: April 11, 2023

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

Administrative Cause No.: DOI-2211-002487
Underlying/State Agency Action No.: 21962-AD22- 1103-116

FINAL AGENCY AUTHORITY: Commissioner of the Department of Insurance

Carla Evette Reddy
Petitioner,

v.

Department of Insurance
Respondent.

Type of Agency Action: Enforcement

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

An evidentiary hearing was held on this matter on January 11, 2023, at 9:00 a.m. EST via telephonic conference. Administrative Law Judge Brian D. Hahn ("ALJ"), having heard, reviewed, and considered all of the evidence, now renders a decision concerning the matter of Carla Evette Reddy ("Petitioner").

Petitioner appeared telephonically, and without counsel. The Indiana Department of Insurance ("Respondent") was represented by its counsel, Samantha Aldridge.

Petitioner testified on her own behalf in the narrative style and offered no exhibits. Respondent called Sara Tolliver, Enforcement Investigator for the Indiana Department of Insurance, as a witness and offered four (4) exhibits that were admitted into the record without objection and identified as Respondent's Exhibits ("RX") 1 through 4.

- RX 1 is a one (1) page document consisting of a letter dated November 10, 2022 from the Indiana Commissioner denying Petitioner's 18 U.S.C. § 1033 waiver request.
- RX 2 is a document consisting of five (5) pages entitled Short Form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. § 1033 and 1034 pertaining to Petitioner.
- RX 3 is a two (2) page document from the Clerk of the Circuit Court for Vermilion County, Illinois pertaining to Petitioner's criminal and traffic case history.
- Rx 4 consists of twelve (12) pages from the Clerk of Court for the Fifth Judicial Circuit Court of Vermilion County, Illinois pertaining to cause 2003 CF 000414 encompassing the following: (1) Docket Sheets (Case History); (2) Charging Information; (3) March 4, 2004, Probation Order; and (4) June 5, 2005, Probation Order.

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

FINDINGS OF FACT¹

1. On August 15, 2003, Petitioner, formerly known as Carla Durgan, was charged with forgery (class 3 felony) and attempted theft (class 4 felony) after attempting to use a store credit card that did belong to her and without the knowledge or consent of the cardholder. (RX 3; RX 4; Petitioner Testimony; Tolliver Testimony)

¹ Findings of Fact that can be construed as Conclusions of Law and Conclusions of Law that can be construed as Findings of Fact are hereby adopted and incorporated herein by reference, respectively.

2. On December 12, 2003, Petitioner, pursuant to a plea agreement, pled guilty and was convicted of forgery (class 3 felony) and attempted theft (class 4 felony). (RX 3; RX 4; Petitioner Testimony; Tolliver Testimony)
3. On August 2, 2007, Petitioner completed the terms of her probation, and an order of discharge was entered. (RX 4)
4. On June 2, 2022, Petitioner applied for a resident producer license ("license") whereafter the Respondent required her to submit a form, entitled Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. §§ 1033 and 1034 ("1033 Waiver"), because of the disclosed felony convictions, which she did on September 16, 2022. (Tolliver Testimony; RX 2)
5. Respondent denied Petitioner's 1033 Waiver due to Petitioner's felony convictions (RX 1; Tolliver Testimony)
6. Petitioner's conviction is over nineteen (19) years old and occurred while Petitioner was a teenager. (Petitioner Testimony; RX 2; and RX 4)
7. Since completing her the terms of her probation, Petitioner has furthered her education and maintained gainful employment. (Petitioner Testimony; and RX 2)
8. Petitioner appeared remorseful of her actions and understood her actions were wrong. (Petitioner Testimony)
9. Petitioner has been employed with Renaissance Life and Health Insurance Company of America since October 3, 2016, as a customer service representative. Petitioner is pursuing an opportunity within her present employer that requires her to obtain a producer license. (Petitioner Testimony; RX 2)

CONCLUSIONS OF LAW

1. The Office of Administrative Law Proceedings ("OALP") has jurisdiction over both the subject matter and the parties to this action and the Commissioner of the Department of Insurance ("Commissioner") has final authority. 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. Petitioner appeals Respondent's decision to deny Petitioner a license because of her criminal history which includes felony convictions from 2003.
4. The Commissioner may refuse to issue a license to an individual who has been convicted of a felony under Indiana Code 27-1-15.6-12(b)(6).
5. Indiana Code 27-1-15.6-12(b) states that the Commissioner may refuse to issue a license when the applicant has a felony conviction. The language of the statute authorizes the Commissioner to use discretion.
6. The person requesting an agency act has the burden of persuasion and the burden of going forward. Indiana Code 4-21.5-3-14(c). Petitioner requests that the Department issue a license, therefore Petitioner bears the burden of proof.
7. 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).
8. A hearing was held to determine the reasonableness of the Commissioner's decision pursuant to Indiana Code 27-1-15.6-12(d).
9. The Commissioner may use discretion in deciding whether to issue a license and may weigh such factors as the length of time that has passed since the felony conviction, the nature of the crime from which the felony conviction arose, Petitioner's credibility, remedial activity that Petitioner has engaged in, and Petitioner's rehabilitation. See prior DOI appeals: 15969-AD17-0125-016, 20100-AD20-1215-164, 1885-AD20-0109-017.

10. In this matter, Petitioner showed sincere remorse and demonstrated that she has changed her life since the 2003 crimes that the felony convictions stem from by pursuing additional education and maintaining consistent employment. Based upon the foregoing, Petitioner should be granted a resident producer license subject to a probationary period of two (2) years beginning the date the Final Order is issued during which time, Petitioner shall submit a current list of appointments to the Department every six (6) months.

NONFINAL 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** the following with respect to Petitioner's application for a resident producer license under license application number 973186 as follows:

- (1). Petitioner's 18 U.S.C. § 1033 waiver shall be approved.
- (2). Petitioner's resident producer license application #973186 shall be approved.
- (3). Petitioner shall be placed on probation for a period of two (2) years beginning the date of this Final Order.
- (4). During the probationary period, Petitioner shall submit a current list of appointments to the Department every six (6) months from the date of the Final Order via email at: Enforcement@idoi.in.gov.
- (5). During the probationary period, any violations of Title 27 of the Indiana Code will result in the Department seeking immediate revocation of Petitioner's license.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the **Commissioner of the Department of Insurance** on April 11, 2023. **This 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 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.



Brian D. Hahn, Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distributed to Parties:

Indiana Department of Insurance – Petitioner, served by Counsel Samantha Aldridge by email at saldrige@idoi.in.gov

Carla Evetter Reddy – Petitioner, served by U.S. Postal Mail at 2012 N Riley Ave., Indianapolis, IN 46218

Additional Distribution 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

DOI CAUSE NO.: 21962-AD22-1103-116
ADMINISTRATIVE CAUSE NO.: DOI-2211-002487

IN THE MATTER OF:)
)
Carla Reddy)
2012 N Riley Ave)
Indianapolis, IN 46218)
)
Petitioner.)
)
Type of Agency Action: Enforcement)
)
License Number #: 973186)

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

The Administrative Law Judge (“ALJ”), having considered and reviewed all of the evidence, will now render a decision in the matter of Carla E. Reddy (“Petitioner”). This matter came to be heard by the ALJ Brian D. Hahn on January 11, 2023 at 9:00 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. Petitioner appeared telephonically and without counsel. 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 and Conclusions of Law and issues the Recommended Order.

FINDINGS OF FACT

1. Petitioner applied for resident insurance producer license on June 2, 2022.

2. Petitioner submitted her application for Written Consent to Engage in the Business of Insurance Pursuant to 18 USC § 1033 and 1034 (“1033 Waiver”) on September 16, 2022.

3. Denial of the 1033 waiver was ordered on November 10, 2022. (Department’s Exhibit 1).

4. Preliminary Administrative Order and Notice of License denial was issued November 22, 2022.

5. Hearing was held on January 11, 2023 regarding Petitioner’s license and waiver status.

6. On or about August 20, 2003, Petitioner plead guilty to and was convicted of Forgery, a level 3 felony and theft, a level 4 felony, in the State of Illinois (Department’s Exhibits 3,4, Hearing Transcript p. 17)

7. While in college, Petitioner possessed and used a department store credit card that did not belong to her without the knowledge or consent of the owner. (Hearing Transcript p.15)

8. Petitioner’s conviction is over 19 years old and occurred while Petitioner was a teenager. (Department’s Exhibits 2,4).

9. Petitioner appears remorseful and understands her actions were wrong. (Hearing Transcript p. 19)

10. Petitioner testifies that since the convictions she has learned what is right from wrong, received an education, and has maintained employment. (Hearing Transcript p. 19)

11. Petitioner admitted no exhibits at the hearing.

12. The Department admitted four (4) exhibits at the hearing. Department’s Exhibit 1 is the Petitioner’s 1033 Wavier denial letter. Department’s Exhibit 2 is Petitioner’s 1033 Waiver

application. Department's Exhibit 3 is Petitioner's Criminal Case History from Vermillion County, Illinois. Department's Exhibit 4 is Petitioner's court file for 03CF414.

13. 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 that the Commissioner refuse to issue an insurance producer license, due to a number of factors.

4. Indiana Code § 27-1-15.6-12(b)(6) allows the Commissioner to refuse to issue an insurance producer's license for having been convicted of a felony.

5. 18 USCS § 1033 requires any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust secure the consent of the Commissioner to engage in the business of insurance in Indiana.

6. 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. Here, Petitioner is requesting that the Department issue her a resident producer license and 1033 waiver and, therefore, Petitioner bears the burden.

7. Pursuant to Indiana Code § 27-1-27-7.1(c), a hearing was held to determine the reasonableness of the Commissioner's decision, and due to the testimony that Petitioner provided at the hearing, Petitioner should be granted a resident producer with a probationary period of two

(2) years beginning the date the Final Order is issued during which time, Petitioner shall submit a current list of appointments to the Department every six (6) months.

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

RECOMMENDED 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. Petitioner's 18 USCS § 1033 waiver shall be granted.
2. Petitioner's resident producer license application #973186 shall be approved.
3. Petitioner shall be placed on probation for a period of two (2) years beginning the date of this Final Order.
4. During the probationary period, Petitioner shall submit a current list of appointments to the Department every six (6) months from the date of the Final Order via email at: Enforcement@idoi.in.gov.
5. During the probationary period, any violations of Title 27 of the Indiana Code will result in the Department seeking immediate revocation of Petitioner's license

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2023.

Brian D. Hahn
Administrative Law Judge

Distribution:

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