

STATE OF INDIANA )  
COUNTY OF MARION )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

IN THE MATTER OF: )  
)  
)  
Charles Spearman )  
)  
Petitioner )  
)  
Type of Agency Action:Enforcement )  
)

**FILED**

**AUG 17 2023**

STATE OF INDIANA  
DEPT. OF INSURANCE

CAUSE NO.: DOI-2301-000181  
22038-AG22-1206-203

**FINAL ORDER**

On June 28, 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 mailing 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.

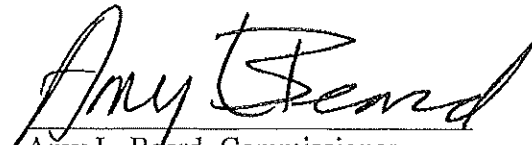
3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Non-Final Order, and more than eighteen (18) days have elapsed.

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, 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 17 day of August, 2023.

  
Amy L. Beard, Commissioner  
Indiana Department of Insurance

Copies to:

Charles Spearman served by email: [cspearman001@gmail.com](mailto:cspearman001@gmail.com)

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STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

**FILED:** Jun 28, 2023

Charles Spearman,  
Petitioner

v.

Department of Insurance  
Respondent

Administrative Case No.: DOI-2301-000181  
Underlying Agency No.: 22038-AG22-1206-  
203

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 February 27, 2023, at 9:00 AM via telephonic conference. Administrative Law Judge (ALJ) Brian Hahn presided over the hearing. Prior to rendering Findings of Fact, Conclusions of Law, and a Nonfinal Order in this matter, ALJ Hahn became unavailable to serve as the ALJ in this matter. The Office of Administrative Law Proceedings (OALP) Director reassigned this matter to ALJ Ingram to issue Findings of Fact, Conclusions of Law, and a Nonfinal Order pursuant to Indiana Code 4-21.5-3-27(e). At the evidentiary hearing, Charles Spearman appeared telephonically, and without counsel. The Department of Insurance (DOI) appeared telephonically by Counsel Samantha Aldridge, and Investigator Sara Tolliver.

Charles Spearman and Sara Tolliver 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, Chronological Case Summary for Case Number 18C04-0303-CM-000014, 23 pages, admitted without objection.
2. Respondent's Exhibit 2, Chronological Case Summary for Case Number 48E01-0601-FD-000041, 7 pages, admitted without objection.
3. Respondent's Exhibit 3, the Chronological Case Summary for Case Number 48C04-1111-FB-00211, 15 pages, admitted without objection.
4. Respondent's Exhibit 4, Sentencing Order for Case Number 48C04-1709-F6-002340, 2 pages, admitted without objection.

On March 29, 2023, Respondent filed its proposed findings of fact and conclusions of law. 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 July 29, 2023, Petitioner was convicted of check deception, a class A misdemeanor, in case number 18C04-0303-CM-000014.
2. On or about October 24, 2006, Petitioner was convicted of domestic battery, a class D felony, in case number 48E01-0601-FD-000041.
3. On or about September 9, 2013, Petitioner was convicted of maintaining a common nuisance, a class D felony; possession of marijuana, a class A misdemeanor; possession of paraphernalia, a class A misdemeanor; and sexual battery, a class D felony, in case number 48C04-1111-FB-00211.
4. On or about August 7, 2018, Petitioner was convicted of failure to register as a sex or violent offender, a level 6 felony, in case number 48C04-1709-F6-002340.
5. Petitioner completed the terms of his probation and paid the fees related to his criminal convictions.
6. On or about October 9, 2022, Petitioner applied for a resident producer license with DOI. Petitioner disclosed his felony convictions on his license application.
7. Petitioner's application for a resident producer license was denied due to Petitioner's felony convictions.

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

1. 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.
2. 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).
3. 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.

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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.



4. 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).
5. 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.
6. A person who has been convicted of any criminal felony involving dishonesty or a breach of trust may not engage in the business of insurance unless that person has written consent of the state insurance regulatory official authorized to regulate the insurer. 18 U.S.C.A. § 1033(e). In Indiana, that person is the Commissioner of DOI. See Ind. Code § 27-1-15.6-12.
7. The Commissioner of DOI may refuse to issue a license to an individual who has been convicted of a felony. Ind. Code § 27-1-15.6-12(b)(6).
8. The Petitioner has four felony convictions, all of which involve dishonesty or a breach of trust. Although the Petitioner completed the terms of his probation and paid the fees related to his criminal convictions, Petitioner has not demonstrated that he has voluntarily taken any actions that would justify the Commissioner granting her consent for Petitioner to engage in the business of insurance.
9. Therefore, it is not unreasonable for the Commissioner to deny Petitioner a resident insurance producer license due to his felony convictions.
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 June 28, 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: June 28, 2023.



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

Distribution:

Petitioner: Charles Spearman served by email at [cspearman001@gmail.com](mailto:cspearman001@gmail.com)

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

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

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

BEFORE THE INDIANA  
COMMISSIONER OF INSURANCE

CAUSE NO.: 22038-AG22-1206-203

IN THE MATTER OF:                     )  
  )  
Charles Spearman                     )  
124 W 5<sup>th</sup> St                         )  
Anderson, IN 46016                  )  
  )  
Applicant.                             )  
  )  
Type of Agency Action: Enforcement   )  
  )  
License Application #: 1008613        )

**FILED**  
**JAN 10 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 Charles Spearman (“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 October 9, 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) provides, in part, that the Commissioner may refuse to issue an insurance producer’s license for having been convicted of a felony.
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)(6), due to Applicant's following felony convictions in the State of Indiana:

August 7, 2018, Failure to Register as a Sex Offender, a Level 6 Felony;

September 9, 2013, Maintaining a Common Nuisance, a Level D Felony;

September 9, 2013, Sexual Battery, a Level D Felony;


August 7, 2006, Domestic Battery, a Level D Felony.

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 felony convictions. Applicant may reapply for licensure not less than one (1) year from the date of this order.

01.10.2023  
Date Signed

  
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Amy L. Beard, Commissioner  
Indiana Department of Insurance

Distribution:

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Samantha Aldridge, Attorney  
ATTN: Sara Tolliver, Investigator  
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