

STATE OF INDIANA)
COUNTY OF MARION) SS:

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)
)
)
Dustin Collins)
)
Petitioner)
)
Type of Agency Action:Enforcement)
)

FILED

OCT 26 2023

STATE OF INDIANA
DEPT. OF INSURANCE

CAUSE NO.: DOI-2307-001903
22373-AD23-0504-044

FINAL ORDER

On August 30, 2023, the Administrative Law Judge, Gary Ricks, 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 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.

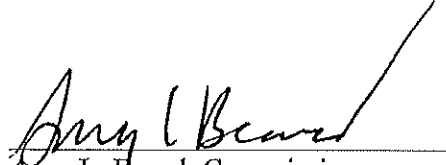
3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Non-Final Order, and more than eighteen (18) days have elapsed.

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 October, 2023.



Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Dustin Collins served by email at dcollins.libnat@gmail.com

Samantha Aldridge, Attorney
Indiana Department of Insurance
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Indianapolis, IN 46204
saldridge@idoi.in.gov



STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

FILED: Aug 30, 2023

Dustin Collins,
Petitioner

v.

Department of Insurance
Respondent

Administrative Case No.: DOI-2307-001903

Ultimate Authority: Commissioner of the Department of Insurance

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

An evidentiary hearing was held on this matter on August 23, 2023, at 11:00 a.m. via telephonic conference. Administrative Law Judge (ALJ) Gary Ricks presided over the hearing. At the evidentiary hearing, Petitioner, Dustin Collins appeared telephonically, and without counsel. The Department of Insurance (DOI) appeared telephonically by Counsel Samantha Aldridge, and Investigator Tina Harris.

Petitioner and Ms. Harris testified at the evidentiary hearing. Petitioner offered no exhibits for admission and Respondent offered two exhibits for admission at the evidentiary hearing. The following exhibits were admitted at the evidentiary hearing:

1. Respondent's Exhibit 1, Copy of Judgment and Sentence on Plea of Guilty and Order of Probation for the charge of Fleeing or Evading Police in the First Degree, a Class D Felony, admitted without objection.
2. Respondent's Exhibit 2, Letter from Michael Lewis of the Dekalb County Probation Department. One page exhibit, admitted without objection.

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

FINDINGS OF FACT¹

1. On or about April 10, 2023, Petitioner applied for a resident producer license with the Commissioner of the Indiana Department of Insurance (hereinafter "Commissioner").

¹ Conclusions of Law that can be adopted as Findings of Fact are incorporated as such.

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2. Indiana Code § 27-1-15.6-12(b)(6) provides, in part, that the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.
3. Following a review of public records and materials submitted by Petitioner as part of his license application, the Commissioner notified the Petitioner that he did not fully meet the requirements for licensure, as stated in Indiana Code § 27-1-15.6-12(b)(6) due to Petitioner's 2022 felony conviction.
4. On June 29th, 2023, Respondent issued a Preliminary Administrative Order and Notice of License Denial to Petitioner.
5. On July 6, 2023, Petitioner submitted his request for an administrative appeal of the denial of his producer license.

CONCLUSIONS OF LAW²

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.

² Findings of Fact that can be adopted as Conclusions of Law are incorporated as such.

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7. The Commissioner 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). The language of the statute authorizes the Commissioner to use discretion.
8. 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 the 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 30, 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.

So Ordered: August 30, 2023.

/s/ Gary Ricks

Gary Ricks
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distribution:

Petitioner: Dustin Collins, served by email at: dcollins.libnat@gmail.com.

Respondent: Department of Insurance served by email to Attorney Samantha Aldridge at saldrige@idoi.in.gov

Ultimate Authority: Commissioner of the Department of Insurance served by email at DBopp@idoi.in.gov

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 22373-AD23-0504-044

IN THE MATTER OF:

Dustin Collins
5573 CR 35
Auburn, Indiana 46706

Applicant.

Type of Agency Action: Enforcement

License Application #: 1049791

FILED

JUN 29 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 Dustin Collins ("Applicant") of the following Administrative Order:

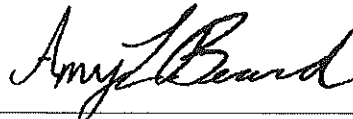
1. Applicant submitted an application for resident producer licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on April 10, 2023.
2. Before approving an application, the Commissioner must find that the Applicant has met specific requirements under Indiana Code § 27-1-15.6-6 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 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 August 19, 2021 conviction for Fleeing and Evading Police, a Class 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 conviction. Applicant may reapply for licensure not less than one (1) year from the date of this order.

6.29.2023

Date Signed



Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution:

Dustin Collins
5573 CR 35
Auburn, Indiana 46706

Samantha Aldridge, Attorney
ATTN: Tina Harris, Investigator
Indiana Department of Insurance
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Indianapolis, IN 46204
317 234-5883, Fax 317 234-2103