

**STATE OF OHIO**  
**DEPARTMENT OF INSURANCE**  
50 WEST TOWN STREET  
3RD FLOOR, SUITE 300  
COLUMBUS, OHIO 43215

In the Matter of:	:	
<b>DEREK HINSON</b>	:	
NPN: 20339792	:	JUDITH L. FRENCH
TO BE LICENSED AS A RESIDENT	:	Superintendent/Director
INSURANCE AGENT IN THE STATE	:	
OF OHIO	:	

**FINAL ORDER**

After considering the Hearing Officer's recommendation, and the transcript of testimony and evidence, and in accordance with Ohio Revised Code ("R.C.") 9.79, 119.09, and 3905.01 through 3905.14, the Ohio Department of Insurance ("Department"), by and through its Superintendent, confirms and approves the Hearing Officer's conclusions of law, findings of fact, and recommendation to refuse to issue Derek Hinson an Ohio resident insurance agent license.

Derek Hinson ("Hinson") applied to become licensed as a resident insurance agent in the state of Ohio on May 20, 2022. The Department issued a Notice of Opportunity for Hearing and Notice of Intent to Refuse License dated November 16, 2022 ("Notice"). The Notice stated that the Department intended to suspend, revoke, or refuse to issue or renew Hinson's license as a resident insurance agent in the State of Ohio or impose any other sanction authorized by R.C. 3905.14, including assessment of a civil penalty or administrative costs, for a violation of R.C. 3905.14(B)(6). The Notice informed Hinson of his right to request a hearing on the proposed action and he timely requested a hearing.

A hearing was held on February 7, 2023. Hinson appeared pro se at the hearing. Assistant Attorney General Christie Limbert represented the Department. During the hearing, the Department admitted five exhibits into the record and Hinson did not admit an exhibit into the record.

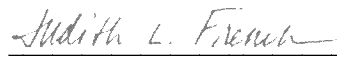
On March 8, 2023, the Hearing Officer issued a Report and Recommendation in this matter. The Hearing Officer found, and the record demonstrates, that the Department sustained its burden of proof by a preponderance of the evidence and that Hinson failed to rebut the evidence presented on the violation of R.C. 3905.14(B)(6). The Hearing Officer also found that Hinson is prohibited from engaging in the business of insurance under 18 U.S.C. §1033. Therefore, R.C. 9.79 does not apply because federal law requires disqualification for individuals convicted of criminal felonies involving dishonesty or breach of trust. The Hearing Officer recommended that the Department refuse Hinson's application.

Pursuant to R.C. 119.07 and 3905.14(D), the Hearing Officer's Report and Recommendation was served on Hinson. Hinson did not file Objections to the Report and Recommendation.

The Superintendent confirms and approves the Hearing Officer's findings of fact and conclusions of law, contained in the attached Report and Recommendation, which is incorporated into this Final Order by reference.

**NOW, THEREFORE, IT IS ORDERED:**

Pursuant to the authority in R.C. 3905.14(E), Derek Hinson's application for a license as a resident insurance agent in the State of Ohio is DENIED. This Order is effective immediately, signed this 16<sup>th</sup> day of August, 2023.

  
JUDITH L. FRENCH  
Superintendent/Director

**NOTICE OF APPELLATE RIGHTS**

This Order may be appealed by filing a Notice of Appeal with the Ohio Department of Insurance ("Department"), Attn: Hearing Program Administrator, 50 West Town St., Suite 300, Columbus, Ohio 43215, setting forth the order appealed from and stating that the Department's Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal may, but need not, set forth the specific grounds of the appeal beyond the statement that the Department's Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notices of Appeal shall also be filed by the party desiring the appeal with the appropriate court of common pleas. Such notices of appeal shall be filed within fifteen (15) days after the mailing of the Department's Order as provided in R.C. 119.12. In filing a Notice of Appeal with the Department or court, the notice that is filed may be either the original notice or a copy of the original notice.

**STATE OF OHIO  
DEPARTMENT OF INSURANCE**

In the Matter of:	:	Case No. LGL-202207-005
	:	
DEREK HINSON	:	Michelle L. Riske-Morris, Esq.
NPN: 20339792	:	Hearing Officer
TO BE LICENSED AS AN	:	
INSURANCE AGENT	:	

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**ADMINISTRATIVE HEARING OFFICER'S  
REPORT AND RECOMMENDATION  
Issued March 7, 2023**

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**I. FINDINGS OF FACT**

**A. Background**

This matter came before Michelle Riske-Morris, an attorney licensed to practice law in Ohio, and serving as a Hearing Officer for the Ohio Department of Insurance (“ODI”) for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code (“ORC”) Chapter 119. The Hearing was held on Tuesday, February 7, 2023 remotely via Microsoft Teams. The purpose of the hearing was in regards to the ODI Superintendent’s intention to refuse to issue Derek Hinson a license as an insurance agent in the State of Ohio.

The hearing was pursuant to a Notice of Opportunity for Hearing and Notice of Intent to Refuse to Issue License on November 16, 2022 by the ODI. The grounds for such action are based on the following:

**COUNT ONE**

On or about March 19, 2009, Hinson was convicted of three counts of Receiving Stolen Property, all felonies, in the Common Pleas Court of Guernsey County, Ohio.

Pursuant to R.C. 3905.14(B)(6), the Superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent for having been convicted of or pleaded guilty or no contest to a felony.

Pursuant to R.C. 3905.14(C), the Superintendent shall not refuse to issue a license to an applicant because of a conviction of or plea of guilty or no contest to an offense unless the refusal is in accordance with R.C. 9.79. R.C. 9.79(I)(2) states that R.C. 9.79 does not apply for any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense. 18 U.S.C. 1033 prohibits individuals who are convicted of a criminal felony involving dishonesty or the breach of trust from engaging in the business of insurance without the written consent of any insurance regulatory official authorized to regulate the insurer.

### COUNT TWO

On or about June 5, 2011, Hinson was convicted of two counts of Theft and two counts of Misuse of a Credit Card, all felonies, in the Common Pleas Court of Muskingum County, Ohio.

Pursuant to R.C. 3905.14(B)(6), the Superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent for having been convicted of or pleaded guilty or no contest to a felony.

Pursuant to R.C. 3905.14(C), the Superintendent shall not refuse to issue a license to an applicant because of a conviction of or plea of guilty or no contest to an offense unless the refusal is in accordance with R.C. 9.79. R.C. 9.79(I)(2) states that R.C. 9.79 does not apply for any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense. 18 U.S.C. 1033 prohibits individuals who are convicted of a criminal felony involving dishonesty or the breach of trust from engaging in the business of insurance without the written consent of any insurance regulatory official authorized to regulate the insurer.

Christie Limbert, an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented ODI. Mr. Hinson did not make an appearance at the hearing, although duly notified of the hearing date and time. Nor did Mr. Hinson have counsel appear on his behalf. Joshua Monroe, a Staff Attorney with the Ohio Department of Insurance, testified at the hearing on behalf of ODI. Also present was Cheryl Jeffrey, Administrator for the Ohio Department of Insurance.

HEARING EXAMINER NOTE: all references to Exhibits shall be by the name of the party tendering the Exhibit and by the Bates Number of each page as stamped in the lower right-hand corner. The State's Exhibit 1 thru 5 were introduced and admitted into the record, copies of which are attached and fully incorporated herein. Redactions were made to Exhibit 4 as some information regarding criminal matters were redacted as they did not relate to criminal convictions at issue for the hearing. The hearing was recorded by Jillian M. Reedy, Court Reporter for Armstrong and Okey, Inc.

**B. Jurisdiction and Procedural Matters**

1. This case is the result of an action by the Superintendent of ODI.
2. On November 16, 2022, ODI sent Derek Hinson a Notice of Opportunity for Hearing & Notice of Intent to Refuse to Issue License (State's Exhibit 1, pgs. 1 thru 5). The grounds for such action are based on the following:

COUNT ONE

On or about March 19, 2009, Hinson was convicted of three counts of Receiving Stolen Property, all felonies, in the Common Pleas Court of Guernsey County, Ohio.

Pursuant to R.C. 3905.14(B)(6), the Superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent for having been convicted of or pleaded guilty or no contest to a felony.

Pursuant to R.C. 3905.14(C), the Superintendent shall not refuse to issue a license to an applicant because of a conviction of or plea of guilty or no contest to an offense unless the refusal is in accordance with R.C. 9.79. R.C. 9.79(I)(2) states that R.C. 9.79 does not apply for any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense. 18 U.S.C. 1033 prohibits individuals who are convicted of a criminal felony involving dishonesty or the breach of trust from engaging in the business of insurance without the written consent of any insurance regulatory official authorized to regulate the insurer.

COUNT TWO

On or about June 5, 2011, Hinson was convicted of two counts of Theft and two counts of Misuse of a Credit Card, all felonies, in the Common Pleas Court of Muskingum County, Ohio.

Pursuant to R.C. 3905.14(B)(6), the Superintendent may suspend, revoke, or refuse to issue or renew any license of an insurance agent for having been convicted of or pleaded guilty or no contest to a felony.

Pursuant to R.C. 3905.14(C), the Superintendent shall not refuse to issue a license to an applicant because of a conviction of or plea of guilty or no contest to an offense unless the refusal is in accordance with R.C. 9.79. R.C. 9.79(I)(2) states that R.C. 9.79 does not apply for any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense. 18 U.S.C. 1033 prohibits individuals who are convicted of a criminal felony involving dishonesty or the breach of trust from engaging in the business of insurance

without the written consent of any insurance regulatory official authorized to regulate the insurer.

3. The Notice for Opportunity of a Hearing and Notice of Intent to Refuse to Issue License sent on November 16, 2022 constituted a withdrawal of the previous Notice of Opportunity for Hearing dated September 19, 2022. As the Notice began a new proceeding, Mr. Hinson was notified that he must request a hearing within the 30 days of the mailing of the new notice (State's Exhibit 1, pg. 4).
4. The Notice of Opportunity for Hearing & Notice of Intent to Refuse to Issue License was sent by certified mail on November 16, 2022 to Mr. Hinson (State's Exhibit 1, pg. 6), and was signed for by Mr. Hinson on November 18, 2022 (State's Exhibit 1, pg. 7).
5. Mr. Hinson requested a hearing on December 6, 2022 (State's Exhibit 2, pgs. 1-2).
6. Mr. Hinson was notified via email that the hearing was set for the same date and time as set forth in the Hearing Scheduling Notification by Joshua Monroe, Staff Attorney for the ODI (Recorded testimony of Joshua Monroe, Transcript 13:1-25 & State's Exhibit 2, pgs. 1-2).
7. The Hearing Scheduling Notification was sent to Mr. Hinson on December 8, 2022 and the hearing was scheduled for February 7, 2023 remotely via Microsoft Teams (State's Exhibit 3, pgs. 1-3).
8. The address used for correspondence to Mr. Hinson was the address on file for Mr. Hinson (Recorded testimony of Joshua Monroe, Transcript 11:1-10 & 15:6-15).

**C. Respondent's Activities**

1. Mr. Hinson applied to be licensed as an insurance agent with the ODI on or about May 20, 2022 (State's Exhibit 4, pgs. 1-6).
2. The application was submitted through NIPR (Recorded testimony of Joshua Monroe, Transcript 17:1-6).
3. In Mr. Hinson's application to be licensed as an insurance agent he disclosed criminal convictions, specifically a conviction in 2009 for three counts of receiving stolen property and a conviction in 2011 for two counts of theft and two counts of misuse use of a credit card. All of these convictions were felonies (Recorded testimony of Joshua Monroe, Transcript 17:12-22 & State's Exhibit 4, pgs. 7-32).
4. Attached to Mr. Hinson's application was a summary of the information regarding Mr. Hinson's convictions as provided by Mr. Hinson to explain the circumstances regarding

these convictions (Recorded testimony of Joshua Monroe, Transcript 18:1-12 & State's Exhibit 4, pgs. 33-35).

5. Mr. Hinson also submitted two letters of recommendation with his application (Recorded testimony of Joshua Monroe, Transcript 18:13-21 & State's Exhibit 4, pgs. 36-37).

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdiction**

1. ODI has procedurally complied with Ohio Revised Code Chapter 119 and jurisdiction over this matter has been established.

### **B. Compliance with Laws**

1. ODI is the state agency responsible for the licensing and regulation of insurance agents pursuant to Ohio Revised Code Title 39.
2. Ohio Revised Code Section 3905.14(B)(6) authorizes the Superintendent of ODI to refuse to issue any license as an insurance agent to an individual who has been convicted of a felony, except as provided in division (C) of that same section. Section 3905.14(C) states in relevant part that the Superintendent shall not refuse to issue a license to an applicant because of a conviction of an offense unless the refusal is in accordance with Section 9.79 of the Ohio Revised Code (ORC Section 3905.14(B) & (C)).
3. Ohio Revised Code Section 9.79 governs limitations on an initial license refusal by a licensing authority, which would include a license as an insurance agent. In an administrative hearing reviewing a licensing authority's refusal to issue an initial license pursuant to Ohio Revised Code Section 9.79, the "licensing authority has the burden of proof on the question of whether the individual's conviction of, judicial finding of guilt of, or plea of guilty to an offense directly related to the licensed occupation" (ORC Section 9.79(F)).
4. Ohio Revised Code Section 9.79 goes on to further state that Section 9.79 does not apply with respect to "any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt, or plea of guilty to an offense" (ORC Section 9.79(I)(2)).
5. Federal law, 18 USCS §1033 prohibits individuals who are convicted of a criminal felony involving dishonesty or breach of trust from engaging in the business of insurance without the written consent of any insurance regulatory official authorized to regulate the insurer and the consent specifically refers to the statute (18 USCS § 1033(e)(2)). In Ohio,

the Superintendent of ODI would serve as the insurance regulatory official authorized to regulate insurers.

6. In the application for licensure submitted by Mr. Hinson, it specifically asks the applicant whether he has ever been convicted of a felony to which Mr. Hinson applied "yes" (State's Exhibit 4, pg. 1).
7. The application then asks if "you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?" In Mr. Hinson's application he replied "N/A" (State's Exhibit 4, pg. 2).
8. It is not disputed that Mr. Hinson has 5 felony convictions, three counts of receiving stolen property occurring in 2009 and two counts of theft and two counts of misuse use of a credit card occurring in 2011 (State's Exhibit 4, pgs. 7-32), all of which involve dishonesty.
9. It does not appear from the evidence submitted that Mr. Hinson applied for written consent from ODI to engage in the business of insurance as required by 18 USCS §1033.
10. Nor is there any evidence presented to show that written consent was provided by the Superintendent of ODI to allow Mr. Hinson to engage in the business of insurance. ODI's Notice of Intent to Refuse to Issue License provides further evidence of ODI's intention not to provide consent (State's Exhibit 1, pg. 3).
11. Ohio Revised Code Section 9.79 does not apply for any position for which federal law requires disqualification from licensure or employment based on a conviction of, judicial finding of guilt of, or plea of guilty to an offense. Without written consent from the Superintendent of ODI, 18 USCS § 1033 is clear that an individual convicted of a criminal felony involving dishonesty or breach of trust is prohibited from engaging in the business of insurance. Accordingly, ODI has sustained its burden of proof with regard to Counts One and Two set forth in the Notice of Opportunity for Hearing and Intent to Refuse to Issue a License.



**RECOMMENDATION**

In Case 202207-005, In the Matter of Derek Hinson, based upon the evidence submitted into the record, ODI was within its authority to refuse to issue Mr. Hinson a license as an insurance agent in the State of Ohio and/or can impose any other sanction authorized by ORC Section 3905.14(E).

**Dated: March 7, 2023**

/s/Michelle Riske-Morris  
Michelle L. Riske-Morris, Esq. (0059392)  
Hearing Officer