

UNITED STATES OF AMERICA  
before the  
SECURITIES EXCHANGE COMMISSION

*In the Matter of the Application of*

PAUL H. GILES, CRD# 2041288

In Support of Application for Review  
Of FINRA's Statutory Disqualification

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**BRIEF IN SUPPORT OF APPLICATION FOR REVIEW**

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## INTRODUCTION

FINRA's decision to statutorily disqualify Mr. Giles is primarily based on a Decision and Order of Revocation filed by the California Department of Insurance 11+ years ago that revoked Mr. Giles' insurance license in California for not responding to the state regarding tax liens (the "Default Order"). Mr. Giles inadvertently failed to respond to the tax lien inquiry and was unaware that his insurance license was revoked until early 2021. Mr. Giles has long since satisfied the tax liens at issue. Mr. Giles has never shown an unwillingness to comply with securities rules and regulations and he has served the profession for over 30 years without any serious allegations of wrongdoing. He was permitted to reapply for a California insurance license immediately after entry of the Default Order and has reapplied for a new California insurance license and is simply waiting for approval of his application.

After California revoked Mr. Giles' insurance license, other states followed suit as a matter of course. In 2010, the Kentucky Department of Insurance and Washington Office of Insurance Commissioner revoked his insurance licenses in their respective states based solely on California's revocation and a failure to respond to an inquiry. Mr. Giles did not become aware of the California, Kentucky, or Washington license revocations until more than a decade later, in early 2021. The revocations from California, Kentucky, and Washington do not prevent Mr. Giles from reapplying for his licenses in those states and, therefore, the revocations do not impose any lasting sanctions. In fact, Mr. Giles is currently in the process of regaining his insurance licenses, which should be sufficient to show that the revocations are not equivalent to a bar.

## ARGUMENT

### **I. The revocations of Mr. Giles' insurance licenses are not equivalent to a bar.**

The Commission should set aside Mr. Giles' statutory disqualification because the Exchange Act, prior Commission decisions, and FINRA's own action all indicate that an insurance license revocation with no lasting sanctions is not the equivalent of a bar.

The Commission has found that a revocation may be the equivalent of a bar where the revocation has the same practical effect of a bar. *Meyers Assocs., L.P.*, Exchange Act Release No. 81778, 2017 WL 4335044, at \*4-5 (Sept. 29, 2017). In *Meyers*, the Commission found that the order had the practical effect of a bar because the financial professional was prohibited from engaging in a particular activity. However, Orders revoking insurance licenses do not have the same practical effect as a bar if the impacted advisor is not prohibited from reapplying for licensure. Mr. Giles had the option to reapply for his license, there is no order prohibiting him from doing so, and he has in fact reapplied.

The Commission recognizes that whether an advisor has a right to reapply for his license should impact issues involving statutory disqualification. *May Capital Group, LLC and Melvin Rokeach*, Exchange Release Act No. 53796, at \*17 (May 12, 2006) ("where the Commission previously imposed a bar with the right to reapply, it was unfair, in the absence of new information, to deny a membership continuance application, once the right to reapply commenced, on the sole basis of the underlying misconduct."). The Commission's decision in *Saava* recognizes the importance of considering whether sanctions exist beyond just a revocation. *Nicolas S. Saava*, Exchange Act Release No. 72485, 2014 SEC LEXIS 5100, at 5 (June 26, 2014). In *Saava*, the Commission considered a final order from the Vermont State Department of Banking, Insurance, Securities, and Health Care Administration that revoked the advisor's securities license in Vermont. Critically, the final order also prevented the advisor from seeking re-registration as a broker in Vermont. The Commission determined that, because the final order prevented the advisor

from seeking re-registration, the sanctions from the final order were “still in effect” after the order revoked the advisor’s license.

More recently, the Commission expressly declined to determine whether an applicant would still be subject to a bar under Section 15(b)(4)(H)(i) beyond the three-year period in which the applicant was prohibited from reapplying for registration. *Meyers Assocs., L.P.*, Exchange Act Release No. 81778, at \*8 n.44 (Sept. 29, 2017). The Commission has the opportunity to consider this serious legal issue in the instant case and find that the temporary and non-final revocation of an insurance license should not bar a financial professional from the securities industry for life, an extreme sanction not befitting the conduct involved.

The Default Order in this matter does not include sanctions beyond a revocation and does not prohibit Mr. Giles from re-applying for a California insurance license. In fact, Mr. Giles could have reapplied for a license *immediately* after entry of the Default Order.<sup>1</sup> Mr. Giles is also able to reapply for insurance licenses in Kentucky and Washington. After receiving the statutory disqualification notice from FINRA, Mr. Giles reapplied for his California insurance license. His application is currently pending.<sup>2</sup> Once his California license is approved, Mr. Giles will reapply in Kentucky and then Washington.

If the California Department of Insurance wanted to bar Mr. Giles from re-applying for a California insurance license, it could have done so by including such language in the Default Order. It did not. The Default Order simply revoked Mr. Giles’ insurance license without any lasting sanction or effect. Similarly, the Kentucky Department of Insurance and Washington

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<sup>1</sup> The FAQs on the California Department of Insurance website state as much. The FAQs are attached as **Exhibit A**.  
<sup>2</sup> Mr. Giles has submitted an application and all necessary paperwork for his California insurance license. At this point, he is simply waiting for the California Department of Insurance to review his application. The California Department of Insurance advised that his application was referred to “Background” for review on May 12, 2021. Mr. Giles spoke with the California Department of Insurance and the Department confirmed his application is review is in process. A screenshot from the California Department of Insurance website that provides an update on the application is attached as **Exhibit B**.

Office of Insurance Commissioner have not barred Mr. Giles from re-applying for insurance licenses in their respective states. Accordingly, Mr. Giles is not barred from the insurance industry and should not be subject to a statutory disqualification.

**II. The Exchange Act's fairness requirement supports setting aside Mr. Giles' statutory disqualification.**

“[A] fundamental principle governing all SRO disciplinary proceedings is fairness.” *Jeffrey Ainley Hayden*, Exchange Release Act No. 42772, 2000 WL 649146 (May 11, 2000). A delay in the underlying proceedings may be “inherently unfair” which can result in setting aside sanctions. *Id.* Waiting 11+ years after the Default Order to statutorily disqualify Mr. Giles for failure to respond to an inquiry about tax liens does not comport with principles of fairness. When applying the fairness test, the FINRA National Adjudicatory Council acknowledges that “we do not believe that the SEC intended to create a mechanical test based solely on those time periods, irrespective of other factors.” *Morgan Stanley DW Inc. et al.*, Disciplinary Proceeding No. CAF000045, at 10 (July 29, 2002).

FINRA's decision to statutorily disqualify Mr. Giles 11+ years after the Default Order and in the midst of a global pandemic has significantly prejudiced Mr. Giles because it hindered his ability to obtain a new California insurance license.<sup>3</sup> Mr. Giles promptly re-applied for a new California insurance license after receiving the statutory disqualification notice from FINRA on April 21, 2021. That was 65 days ago. His application is still pending. The California Department of Insurance has continually stated that the Department is experiencing a high volume of license applications, undoubtedly due to the COVID-19 pandemic. Of course, if FINRA had provided Mr. Giles with a statutory disqualification notice in August 2009 after the Default Order was entered

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<sup>3</sup> According to FINRA, once Mr. Giles obtains a new California insurance license followed by licenses in Kentucky and Washington, he would no longer be subject to a statutory disqualification.

or at any point prior to the COVID-19 pandemic, Mr. Giles would have applied for a new California insurance license at that time and his application could have been promptly reviewed and approved by the California Insurance Commission. FINRA's delay clearly prejudiced Mr. Giles in this regard.

A fairness analysis should consider the facts and circumstances of each case. *Morgan Stanley DW Inc. et al.*, Disciplinary Proceeding No. CAF000045, at \*23 (July 29, 2002) (Courts have consistently noted that “**fairness**” concepts--whether in the context of constitutional, statutory or common law claims or defenses--are rooted in equity and require consideration of the facts and circumstances of each case.) It is inherently unfair for FINRA to (1) provide guidance indicating that license revocations are not the equivalent of bars and (2) selectively choose to statutorily disqualify certain brokers whose insurance licenses are revoked but not others.

The FINRA Sanction Guidelines developed by the FINRA National Adjudicatory Council and made available to advisors like Mr. Giles explains that a “bar” is a “**permanent** expulsion of an individual from associating with a firm in any and all capacities.” (emphasis added).<sup>4</sup> Yet FINRA has taken the exact opposite position with respect to Mr. Giles. There is nothing permanent about the revocation of Mr. Giles' California insurance license. He had the right reapply and rejoin the California insurance industry immediately after entry of the Default Order. That right alone shows the California Insurance Commission did not intend to permanently bar Mr. Giles from the industry. It would be an extreme and disproportionate sanction to statutorily disqualify Mr. Giles from the securities industry based on revocation of an insurance license that he is permitted to reapply for.

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<sup>4</sup> See FINRA Sanction Guidelines ([https://www.finra.org/sites/default/files/Sanctions\\_Guidelines.pdf](https://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf))



It is also unfair for FINRA to selectively pick and choose which license revocations should be treated as bars subject to statutorily disqualification and which should not. Before initiating the instant appeal, Mr. Giles' employing broker dealer Ameriprise Financial Services, LLC and undersigned counsel met with FINRA on April 6, 2021, to discuss FINRA's decision to statutorily disqualify Mr. Giles. FINRA advised during the meeting that it does not consider all insurance license revocations to be "bars" and that its determination is based on factors that FINRA considers internally but has never disclosed to brokers like Mr. Giles. For example, FINRA explained that insurance license revocations based on a failure to pay required fees are not bars from FINRA's perspective and that brokers whose licenses are revoked for this reason would not be subject to statutory disqualification. FINRA explained that revocations based on more egregious conduct could be considered bars. It is patently unfair for FINRA to take such an inconsistent approach, particularly when that approach is inconsistent with its own Sanction Guidelines.

### **III. Conclusion**

For the foregoing reasons, Mr. Giles respectfully requests that the Commission retract FINRA's statutory disqualification and allow him to continue his 30-year career as a financial professional. Mr. Giles understands and appreciates the importance of prompt disclosure, he has suffered consequences as a result of his inadvertent failure to disclose, and he has the opportunity to regain his insurance licenses while practicing prompt disclosure to FINRA.

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June 25, 2021

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following via the email and the SEC portal this 25<sup>th</sup> day of June 2021:

Vanessa Countryman, Secretary  
Securities Exchange Commission  
Via Email: [apfilings@sec.gov](mailto:apfilings@sec.gov)  
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Attorney

# Exhibit A

# Background Review FAQs

## Frequently Asked Questions

[What do I need to know about the background check before I apply for a license](#)

[How can I make sure I answer the background screening questions on the license application accurately and I can avoid denial of my license](#)

[What happens if I have a criminal conviction on my Record and how it could impact my ability to obtain a license](#)

[What happens if disciplinary proceedings are initiated by CDI](#)

[License background information for non-resident applicants](#)

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## What do I need to Know about the Background Check Before I Apply for a License?

### 1. What kind of background review check does the CDI perform on each application?

Prior to license issuance, the California Department of Insurance (CDI) completes detailed background checks on all license applications. This includes the receipt and review of criminal offender record information (CORI) from the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) resulting from the [fingerprints submitted on each applicant](#). The National Association of Insurance Commissioner's (NAIC's) Regulatory Information Retrieval System (RIRS), State Producer Licensing Data Base (SPLD), and Special Activities Data Base (SAD) are also checked for any disciplinary actions.

### 2. How can an applicant expedite the Licensing Background review?

Answer all background screening questions truthfully and provide all required background documentation at the time of application. The number one reason that an application may be denied is the applicant's failure to accurately disclose their conviction record. Therefore, checking the "Yes" box when appropriate and providing the required information regarding each conviction are the most important things that an applicant can do to avoid unnecessary delays.

### 3. Why am I being told I must wait 45 days before contacting the Producer Licensing Background Section (PLBS) for a status on my background review?

Many applicants contact PLBS only days after receiving notice that their application has been sent for additional background review. Handling these calls takes considerable time away from the actual background review process. The PLBS staff will contact the applicant directly by letter when they need any additional information.

### 4. What information should I provide if I contact the Producer Licensing Background Section for a status on my case?

Your full name, the name of the corporate filing (if different from the applicant); return phone number, case number or file number (if known); name of background analyst assigned to the matter (if known).

### 5. How long will it take for someone in the Producer Licensing Background Section to contact me with a status?

If you leave a message at the PLBS Main line number (916) 492-3650, our staff can usually pull the file and return the call within 24 to 72 hours. However, the time for a return call does fluctuate, depending on our workload and staffing.

Because of the legal nature of our work, and security concerns, we correspond with applicants undergoing background reviews in writing.

## 6. Can anyone call PLBS for a status on my background review case?

No. Due to confidentiality provisions of law, and DOJ/FBI rules about security of CORI information, it is PLBS's policy to only discuss pending licensing background matters with the applicants undergoing background review. We do not discuss these matters with the applicants' employers so we ask that the employers not contact PLBS for case status checks on their applicants who are undergoing background review. The applicants should contact PLBS directly.

## 7. Can CDI pre-evaluate my criminal conviction to determine if my conviction would have an impact on licensure before I apply?

No. The CDI does not have the resources to pre-screen applications. Each application must be carefully documented and reviewed before a decision can be made. When reporting convictions, the applicant is required to provide a complete explanation of the underlying circumstances, and certified copy of the court documents. The CDI reviews these applications on a case by case basis to make a determination based on the underlying conduct and documentation provided. In many cases, the underlying arrest report is also obtained and reviewed.

Sections 1668 and 1669 are the California Insurance Code (CIC) sections relied upon most often to deny licensure in most cases. See Question 21 for a link to the Producer Background Review Regulations that are relied upon in determining licensing suitability.

If you have a felony conviction involving dishonesty or breach of trust, you must apply for written consent under Title 18 USC 1033 from the Commissioner before engaging in the business of insurance. [Instructions, applications, and forms for obtaining 1033 consent](#) consent are available on this website.

## 8. Does the CDI perform background checks after a license is issued?

Yes. CDI also receives subsequent CORI reports on criminal violations and disciplinary actions after licenses are issued. Furthermore, when licenses are renewed, licensees are required to disclose criminal violations and background changes since their last renewal application.

Under [CIC 1729.2](#) licensees also have an ongoing duty to report background changes to CDI. These background change disclosures are reviewed by PLBS to determine if any disciplinary action against the license is warranted.

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# How Can I Make Sure I Answer the Background Screening Questions on the License Application Accurately and How Can I Avoid Denial of my License?

## 9. How can I avoid Denial of my license application?

Answer the background screening questions on your application truthfully and completely. You must read the background screening questions on the application carefully and answer truthfully and completely. Provide all the information being requested at the time you file your application to prevent delays.

Failure to disclose disciplinary actions or crimes which occurred, can be considered an attempt to obtain a license by fraud or misrepresentation and could result in the Denial and/or Delay in processing of your application. Regardless of any advice that may have been received from others, the license applicant is held responsible, under penalty of perjury, for disclosing accurate and complete information.

Carefully review your entire history and provide complete and accurate information. You must provide accurate, complete and detailed background information regarding:

- ◆ Any disciplinary action taken against a business or professional license;
- ◆ Any criminal convictions (except juvenile offenses) (This includes DUIs, reckless driving convictions, driving on a suspended license convictions, misdemeanors, felonies, military offenses, etc.); and
- ◆ Any criminal charges pending at the time you submit your application.

When in doubt disclose. In the event you have one or more offenses to report, please make sure you disclose all convictions regardless of how long ago they occurred, or whether or not a conviction has been dismissed under California Penal Code Section 1203.4 or a similar statute. A clearance of this type does not eliminate all possible adverse consequences or release a person from all "penalties and disabilities" resulting from the charges in the case.

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**Warning:** The failure to disclose charges/convictions will cause substantial delays in the processing of your application and may result in denial of your license application. Failure to disclose all conviction information falsification of the application which was signed under penalty of perjury and is grounds for denial.

Keep in mind that due to the severity and nature of the criminal history in some instances, the license application can still be denied irregardless of how well the applicant follows instructions in the application process in completing the background questions.

#### 10. What is the definition of "crime" for purposes of answering the licensing background application crime question?

A crime includes a misdemeanor, felony or military offense. You may exclude juvenile offenses. A few examples of offenses which must be disclosed on the license application include, but are not limited to:

- ◆ Driving while under the influence of alcohol or drugs;
- ◆ Driving without a license or while license is suspended;
- ◆ Any criminal charges pending at the time you submit your application;
- ◆ Reckless driving;
- ◆ Hit and Run While Driving a Vehicle;
- ◆ Petty Theft;
- ◆ Shoplifting;
- ◆ Soliciting a Prostitute;

#### 11. What is the definition of a "conviction" for purposes of the licensing background question on the application?

"Conviction" includes, but is not limited to, having ever been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, having had any charge dismissed or plea withdrawn pursuant to California Penal Code Section 1203.4, or having been given probation, a suspended sentence, or a fine.

You can have a conviction even though you never served jail time and were given probation.

#### 12. What happens if I fail to disclose all or part of my conviction(s) or an arrest resulting in charges being filed?

Failure to disclose all or part of your conviction(s) may be grounds for denial or disciplinary action as you falsified information required on your application for licensure or renewal of licensure. If you do not disclose an arrest resulting in charge being filed and/or resulting conviction, it is likely that your license will be denied or it may be issued subject to a period of probation (i.e. license restriction).

There will be a delay in issuance even if CDI decides to issue the license because applications with false answers are given less priority than those who are truthful and disclose their backgrounds.

#### 13. Do I have to report an arrest on my license application if I was not convicted?

Only if charges were filed do you have to report an arrest. If no charges were filed, you do not have to report an "arrest only." You should check with the court and Police or Arresting Agency to find out if charges were filed before you answer the question on your application for licensure.

#### 14. What happens if I can't obtain certified court documents on my conviction(s)?

You must submit written proof from the court specifying the inability to locate the required documents.

#### 15. Do I have to report a conviction that was expunged (i.e. conviction was sealed, stricken or deleted from official records)?

Yes. Pursuant to California Penal Code Section 1203.4, you are required to report a conviction that was expunged. The law specifies that it does not relieve you from obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency.

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## What Happens if I Have a Criminal Conviction on my Record? How Could it Impact My Ability to Obtain a License?

## 16. How does a criminal conviction affect my insurance license application?

The CDI is unable to provide legal advice. The CDI assesses whether or not an individual should hold a license by reference to a number of areas. Those offenses that are substantially related to the qualifications and duties of the licensee are looked at the most closely. One of the more important criteria of our review is the disclosure of the conviction. All information related to an applicant's criminal history is considered such as the seriousness of the crime, the relevance to the current role being held and how long ago it was committed. A conviction that does not, at first glance appear to be substantially related to the qualifications, functions or duties of a licensee, may under closer scrutiny be revealed otherwise.

Section 1669 of the CIC allows CDI to summarily deny or revoke a license based on a criminal conviction for a felony violation of law or prior revocation administration action against a professional license without affording a hearing.

Section 1668 of the CIC allows CDI to deny or revoke a license based on a felony or misdemeanor conviction a hearing afforded to the applicant.

Section 1668 and 1669 are the most common Insurance Code sections relied upon in taking action against a license.

## 17. Can I get licensed in California if I have a criminal conviction?

You may or may not be granted licensure depending on the circumstances of the case, the length of time since the conviction, and actions you have taken for rehabilitation. If you are currently on probation, especially for a theft, violence, or dishonesty related offense, you may have to wait until the probation is completed before being granted a license. Each case is looked at on a case by case basis and the underlying facts and circumstances are evaluated in each case.

## 18. How can I get a probationary or "restricted" license issued to me?

In some cases, based on the applicant's criminal record, CDI may offer the applicant a restricted license under section 1742 of the CIC in lieu of denying the applicant because of the criminal conviction or in lieu of taking them to hearing. The restricted license is a fully functioning license that will remain on a probationary status (usually for a minimum of three years). The restricted license can be summarily revoked (i.e. without first holding a hearing) if a subsequent violation of law occurs. Upon the completion of three years under the restricted license with no further violations, the licensee can request to have the restrictions removed.

## 19. How do I get the restrictions on my insurance license removed?

Send your written request to the Producer Licensing Background Section at 320 Capitol Mall, Sacramento, CA 95814-4309 asking that the restrictions be removed. You can also fax your request to the Producer Licensing Background Section at (916) 323-1512. Your request will then be forwarded to our Legal Department for review. Please note that the normal benchmark for removing restrictions is typically 3-5 years.

## 20. How does CDI determine which violations are substantially related to the applicant's license or duties of the licensee?

Pursuant to Title 10, California Code of Regulations, Section 2183.2, 2183.3 and 2183.4, for purposes of denial, suspension, revocation, and/or restriction of a license or license application, in addition to matters specifically mentioned by statute as grounds, a crime or act that is substantially related to the qualifications, functions or duties of an insurance licensee includes, but is not limited to, the following:

- (a) Any felony;
- (b) Any misdemeanor which evidences present or potential unfitness to perform the functions authorized by the license in the manner consistent with the public health, safety, and welfare, including but not limited to soliciting, attempting, or committing crimes involving the following:
  - (1) Dishonesty or fraud;
  - (2) Any conviction arising out of acts performed in the business of insurance or any other licensed business or profession;
  - (3) Theft;
  - (4) Sexually related conduct affecting a person who is an observer or non-consenting participant in the conduct or convictions, or which requires registration pursuant to the provisions of Section 290 of the California Penal Code;
  - (5) Resisting, delaying, or obstructing a public officer in violation of California Penal Code Section 148;
  - (6) Any act or offense wherein the person willfully causes injury to the person or property of another;

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- (7) Violation of a relation of trust or confidence, or breach of fiduciary duty;
- (8) Conduct which demonstrates a pattern of repeated and willful disregard of law.
- (9) Any act which demonstrates a willful attempt to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments, or levies duly imposed upon the licensee or applicant by federal, state or local government or a willful, failure to comply with a court order.

In considering discipline of a licensee or license applicant, the weight to be afforded to a substantially related conviction may be determined by the application of guidelines including, but not limited to the following:

- a) The extent to which the particular act or omission has adversely affected other person(s) or victim(s), including but not limited to, insurers, clients, employers, or other persons and the probability such adverse actions will continue;
- b) The recency or remoteness in time of the act, misconduct, or omission;
- c) The type of license applied for or held by the license applicant involved;
- d) The extenuating or aggravating circumstances surrounding the act, misconduct or omission;
- e) Whether the licensee or applicant has a history or prior license discipline, particularly where the prior discipline is for the same or similar type of conduct.

[Background review regulations](#) are accessible on this website.

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## What happens if Disciplinary Proceedings are initiated by CDI?

### 21. If disciplinary proceedings to deny my application are initiated, what happens?

Process for Hearings:

If a Right to a Hearing is Being Afforded To You: You will receive formal legal notice by mail at your mailing address of record in the form of a "Statement of Issues" setting forth the grounds for denial and that you are being given the opportunity for a hearing via a "Notice of Defense."

In some cases, you may receive a "Special Notice of Defense" allowing you the option to voluntarily consent to a denial of your application and for the issuance of a restricted license, waiving your right to the hearing.

If you have no Right to a Hearing (e.g. such as a case under Section 1669 of the CIC), you will receive a "Summary Order of Denial" officially denying your pending application without right to a hearing. The Summary Order of Application Denial is usually effective in 30 days.

### 22. Can I represent myself at the Hearing?

Yes. The [Office of Administrative Hearing's web site](#) has information about the process and how you may represent yourself at hearing if you choose to do so.

### 23. How can I appeal the Denial decision?

Send a written request for reconsideration into the CDI's Legal Division within 30 days of the Final Order setting forth the reasons why you feel the reconsideration should be granted. You should include any and all additional evidence you would like reconsidered. It is important that you not just include the same information previously provided. Examples of the types of evidence to include would include rehabilitation evidence, letters of recommendation, witness statements, etc. You can mail the request to Department of Insurance, Legal Division, 300 Capitol Mall, Suite 1700, Sacramento, CA 95814 or send by Fax to (916) 324-1883.

### 24. Can I withdraw my application during the licensing background review process?

Yes. At any time you can elect to withdraw your application during the background review process. If your application is withdrawn the CDI will usually elect not to proceed on the matter. You can withdraw your application by sending a written request to the Producer Licensing Background Section at 320 Capitol Mall, Sacramento, CA 95814.

### 25. Will anyone be notified if my license application is denied by CDI?

Yes. The NAIC Regulatory Information Retrieval System (RIRS) will be notified of the final action and the [final Order of Denial will be published on CDI's public web site](#) for 10 years.

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**26. What happens if I do not respond to the PLBS during the background review process?**

The CDI can initiate a Default decision against you or cite you for a violation for failure to respond to a CDI inquiry as required under CIC 1736.5. This disciplinary action could become a matter of public record and be reported to NAIC RIRS. As such, you are highly encouraged to respond and not ignore the PLBS.

**27. How can I demonstrate rehabilitation?**

Applicants are given the opportunity to explain any criminal conviction. You will be asked to do this in writing. In addition to providing any explanation, you may also provide evidence of rehabilitation such as counseling, gainful employment, completion of appropriate rehabilitation programs, letters from probation officers, evidence of completion of 12 step programs, certificates of rehabilitation, etc.

**28. If my license is revoked, how long before I can reapply?**

You can reapply at any time. However, under CIC 1669, CDI can summarily deny an applicant previously revoked within 5 years of the prior revocation.

**29. If my license is revoked or denied can I get my filing fees refunded?**

No. All application filing fees are non-refundable.

**30. How can I obtain a copy of my own Criminal History Record (Rap sheet)?**

You must contact the California Department of Justice for a copy. Instructions for obtaining a copy of your own sheet are contained at the [DOJ' web site](#). The CDI is prohibited from providing you with a copy as a DOJ rule prohibits us from disseminating copies of rap sheets, even to the licensing applicants whose fingerprints are involved.

**31. Can I get my felony conviction reduced to a misdemeanor under 17b of the California Penal Code then apply or reapply for licensure?**

Yes. You can try reapplying once the felony has been reduced to a misdemeanor. In most cases, a misdemeanor conviction resulting from a felony reduction will be looked at more favorably. Furthermore, a misdemeanor conviction usually entitles you to rights to a hearing, whereas a felony conviction does not in all instances. If the conviction was dishonesty related or recent it may still be a concern though. You may want to consult with an attorney to find out if your felony conviction can be reduced to a misdemeanor, before you apply for licensure.

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## Licensing Background Information for Non-Resident Applicants

**32. If I am a non-resident applying from another State and I have a criminal history and my home state has already licensed me, does it automatically qualify me for licensure in California?**

No. California still conducts a fingerprint based background check on all non-resident applicants. The requirements for licensure and types and elements of crimes differ from State to State. Once uniform standards for underlying criteria for evaluating backgrounds are developed, California may reconsider its position.

**33. Does California accept documents from the National Insurance Producer Registry (NIPR) Attachment Warehouse as part of the background review process on non-resident applicants?**

Yes. California is a participating State. As long as the applicant is willing to provide certified original copies in the event the matter is taken to hearing or results in disciplinary action where the documents must be introduced as evidence. California is in the process of developing a paperless document submission system for residents to also submit such documents in an electronic format.

**34. If California takes action against my non-resident license will they notify NAIC RIRS of the action against my non-resident license?**

Yes. California will report the action to NAIC RIRS on your non-resident license. As a result, your home state will find out about the matter if they also check NAIC RIRS.

**35. How do I comply with the fingerprint requirements in California as a non-resident applicant?**

[Fingerprint instructions for non-residents](#) are on our website. They also explain what to do in the event your fingerprints are delayed.

**36. Do the background questions on the NIPR application differ from the background questions on the California application form?**

Yes. California's licensing application form requires disclosures pertaining to misdemeanor traffic convictions involving vehicle code violations, such as driving under the influence violations, driving without a license, reckless driving or driving on a suspended license and the NIPR and uniform non-resident applications currently do not.

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require such disclosures for these particular types of criminal convictions. Important: When applying in California, these types of criminal violations of law must be disclosed as part of the background screening review process by non-resident applicants even though the NAIC Uniform applications say they may be excluded.

**37. If the Department denies my license based upon information received from the Department of Justice that is not verified by fingerprints what recourse do I have under Penal Code 11105.75(a)(1)?**

If your license is denied, Penal Code 11105.75(a) (1) allows you to challenge the identification. You may also appeal the decision on the grounds that you as the applicant are not the person so identified.

The Department nor any of its employees or any requesting agency or entity shall be liable to any applicant for misidentifications made pursuant to this penal code section.

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# Exhibit B

✓ Here are applications for Giles, ssn# xxx-xx-0901

### Check License Application Status Service - Individual

Last Name: \*

Giles

Date Of Birth: \*

██████████ (Please use 'MM/DD/YYYY' format)

(Last 4 digits) Social Security Number: \*

██████████

Business Location Zip Code: \*

48084

Reset Retrieve Applicat

### License Application Status - Individuals

\* Select the Identification Number to retrieve application

GILES, PAUL - If it has been more than 30 days since your application was referred to the Background Section, you can obtain a status by calling 916-492-3650. All calls will be returned with hours.

Identification Number	Description	License Type(s)	Received Date	Status	Download
<a href="#">2863696</a>	Non-Res Ins Producer (Indv)	Life-Only (LO) Variable Contracts (VC)	21-APR-21	Referred to Background (12-MAY-21)	Not Available

\* If an individual's license application is not retrieved, please call California Department of Insurance (CDI) Licensing Hotline at (800) 967-9331, or send an email to [Producer License Bureau](#). Please be sure to include your name, telephone number, license number (if applicable) and email address in all correspondence with CDI.

Disclaimer: The Check License Application Status Service (CLASS) displays the required items stated in [California Insurance Code](#) for license applications that are submitted by individuals and business entities to the CDI. CLASS is available to assist applicants and licensees to confirm that their license application requirements were submitted for review by CDI. CLASS page does not make a determination as to if the license application requirements are met nor does CLASS determine if a license can be issued based on the "pass" or "pending" responses listed on this web page.



