

State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION**

IN THE MATTER OF:

Sean C. Fannin,

Applicant.

Serve at:

2759 E. Charolais Street
Springfield, MO 65803-8372

Case No. 07A000246

COPY

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On May 18, 2007, Kathryn Turner, as senior counsel for the Investigations Section of the Consumer Affairs Division, submitted a petition to the Director alleging cause for refusing to issue the insurance producer license of Sean C. Fannin ("Applicant"). After reviewing the petition, and the investigative report, the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Sean C. Fannin ("Applicant") is a Missouri resident with an address of 2759 E. Charolais Street, Springfield, Missouri 65803-8372.
2. On February 28, 2007, the Department of Insurance, Financial Institutions & Professional Registration received the Uniform Application for Individual Insurance Producer License of Applicant ("Application").
3. Question 39-1. of the Application asks,

Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?
4. Applicant checked the "Yes" answer to this question.

5. In fact, on September 18, 2003, Applicant pled guilty to the federal felony of Conspiracy to Distribute Ecstasy, in the United States District Court for the Western District of Missouri, Southern Division.
6. On January 21, 2004, Applicant was sentenced to 23 months imprisonment and on August 5, 2005, he was put on probation and will remain on probation until August 5, 2008.
7. This order is in the public interest.

CONCLUSIONS OF LAW

8. Section 375.141.1 RSMo Cum Supp 2006 provides, in part:

The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

(6) Having been convicted of a felony or crime involving moral turpitude.

9. Applicant has been convicted of the felony of Conspiracy to Distribute Ecstasy and remains on probation until August 5, 2008, a ground for refusal under Section 375.141.1 RSMo Cum Supp 2006.
10. Applicant may be disqualified and therefore, refused an insurance producer license, based upon the §375.141(6) for the felony conviction. The current statute is to be properly applied to licensing actions. Finke v. Cummings, Case No. 06AC-CC01084, March 23, 2007.
11. As §375.141 provides that the director “may” refuse a license renewal, the director has discretion under this section for disqualifying Applicant on the basis of the felony conviction. State Bd. Of Regis’n for the Healing Arts v. Finch, 514 S.W. 2d 608 (Mo. App., E.D. 1984); Joyce v. Director of Insurance, No. 97-3416 DI (Mo. Admin. Hearing Comm’n May 28, 1998); James A. Gillihan v. Director of Insurance, No. 04-1652 DI (Mo. Admin. Hearing Comm’n December 21, 2006); Rochelle K. Whatley v. Director of Insurance, No. 05-1074 DI (Mo. Admin. Hearing Comm’n January 3, 2007). A licensed insurance producer is often entrusted with substantial funds belonging to others. This fiduciary capacity requires integrity. Due to training and the complexity of many insurance contracts, a licensed insurance producer also often enjoys a substantial bargaining advantage over many prospective insurance purchasers. A duty of fair dealing accompanies this specialized professional knowledge. While a plea of guilty to the conspiracy to distribute a controlled substance only three years ago may have occurred for varied reasons, it does reveal a risk to the citizens of this state, which is unjustified. Although states regulate the business of insurance, the federal

government recognized the concern of permitting convicted felons to conduct that business when it enacted the Insurance Fraud Prevention Act of 1994, 18 U.S.C. § 1033(e)(2) which requires the director to specifically waive the presumption of disqualification for convictions involving moral turpitude. In refusing a license to Applicant, the Director is also refusing to waive the federal disqualification under the Insurance Fraud Prevention Act of 1994.

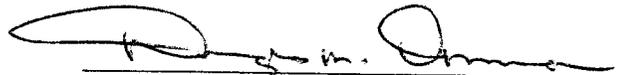
12. In applying this discretion, the Director has considered the history of the Applicant and all of the circumstances surrounding the Applicant's Application. Although the Applicant may complete his criminal supervision on August 5, 2008, his recent felony crime and nineteen months of imprisonment raise additional questions regarding Applicant's integrity and whether he has demonstrated that he can meet the significant responsibilities of a licensed insurance producer in the near future. For all of these reasons, the Director exercises his discretion in refusing to license the Applicant.
13. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the issuance of the insurance producer license of Applicant Sean C. Fannin is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 23rd DAY OF May, 2007.



DOUGLAS M. OMMEN
DIRECTOR

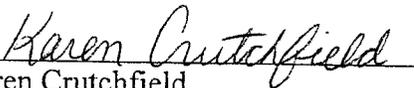
NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within (30) days after the mailing of this notice pursuant to Section 621.120 RSMo.

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2007, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified mail.



Karen Crutchfield
Senior Office Support Staff