# State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

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| IN THE MATTER OF: | ) | |
| | ) | |
| William Joseph Dillard | ) | Case No. 07A000401 |
| | ) | |
| Applicant. | ) | |
| | ) | |
| Serve at: | ) | |
| | ) | |
| 1208 Viola St Apt H<br>Nixa MO 65714 | ) | |
| | ) | |

## REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On October 29, 2007, Kathyrn Turner, as Chief Investigations 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 William Joseph Dillard ("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. William Joseph Dillard is a Missouri resident with an address of 1208 Viola Street, Apt H, Nixa, Missouri 65714.

2. On May 22, 2007, William Joseph Dillard ("Applicant') filed a Uniform Application for Individual Insurance Producer License ("Application") with the Department of Insurance, Financial Institutions and Professional Registration seeking licensure as an insurance producer.

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 marked the "No" answer to that question.

5. Question 39-2 of the application asks,

> Have you...ever been involved in an administrative proceeding regarding any professional or occupational license?

6. Applicant answered "No" in response to this question.

7. On February 27, 1997, the Insurance Commissioner of the State of California revoked Applicant's California insurance license finding that Applicant had been convicted, on a plea of guilty, to misdemeanor welfare fraud in 1995 in San Diego County, San Diego Judicial District Court.

8. In July of 1997, Applicant submitted an application for a Missouri insurance agent license and failed to disclose the revocation. During the 1997 Application process, Applicant was asked in writing to explain why he did not disclose the revocation. Applicant failed to respond and his Missouri license was refused on February 18,.1998.

9. In December of 1999, Applicant submitted another application for a Missouri insurance agent license. On this application, Applicant failed to disclose the conviction and the revocation. On February 14, 2000, Applicant's Missouri license was refused for a second time.

10. On the 2007 application, Applicant failed to disclose the revocation of his California insurance license and the 1995 conviction.

11. On June 7, 2007 and June 25, 2007, letters were sent by regular mail to Applicant asking for an explanation of why the conviction and disciplinary action were not disclosed on his application. The Applicant failed to respond to either inquiry.

12. This order is in the public interest.

## CONCLUSIONS OF LAW

13. 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:
>
> (2) Violating any insurance laws...;
>
> (3) Obtaining or attempting to obtain a license through material misrepresentation...;

> (6) Having been convicted of ...a crime involving moral turpitude;
>
> (9) Having an insurance producer license, or its equivalent...revoked in any other state...;

14. Section 374.210.2 2000 provides, in part:

> 2. Any person who shall refuse to give such director full and truthful information, and answer in writing to any inquiry or question made in writing by the director, in regard to the business of insurance carried on by such person...shall be deemed guilty of a misdemeanor...

15. As §375.141 provides that the director "may" refuse a license application, the director has discretion under this section for refusing to issue a license. State Bd. Of Regis'n for the Healing Arts v. Finch, 514 S.W. 2d 608 (Mo. App., E.D. 1984). The issuance of a license to an applicant for an insurance producer license "places the seal of the state's approval upon [the Applicant] ....and certifies to the public that he ... possess[es] these requisites [competency, skill...]" State ex rel. Lentine v. State Bd. Of Health, 66 S.W. 2d 943, 950 (Mo. 1993); Hess v. Director of Insurance, No. 93-000368DI, (Mo. Admin. Hrg. Comm.1993).

16. Applicant has repeatedly failed to provide the Department with full and complete information on three (3) applications for an insurance producer license, a violation of §374.210.2 RSMo 2000 and a cause for refusal under §375.141.1(2) RSMo (Cum. Supp. 2006). He has also repeatedly failed to respond to Missouri department staff reviewing his application for a Missouri insurance producer license. In addition to violating the law, being unresponsive to the regulatory agency to which he is applying for a license is failing to perform a very basic professional duty.

17. Applicant has been convicted of welfare fraud for receiving excess payments under California welfare law, a cause for refusal under §375.141.1(6) RSMo (Cum. Supp. 2006). Applicant committed an offense that calls into question his integrity and ability to act as a trustworthy insurance producer who may be handling the funds and private information of clients and prospective clients. His subsequent failure to disclose this conviction underscores Applicant's apparent inability to comply with a basic duty under the insurance laws—full disclosure of his criminal and regulatory history—and is evidence of lack of rehabilitation and a desire to comply with the law.

18. Applicant had his California insurance agent license revoked because of his failure to disclose the conviction on his California insurance agent license, a cause

for refusal under §375.141.1(9) RSMo (Cum. Supp. 2006). Such failure and the subsequent revocation of the license, which was not disclosed, bolster the discretionary decision to refuse the license.

19. The Applicant may also be disqualified, and therefore have his application refused because Applicant's "No" answers to Questions 39-1 and 39-2 of the Application to the Department was fraud and deception by concealment of a material fact, in that Applicant concealed his 1995 conviction and the 1996 revocation of his California license. "Concealment of a material fact of a transaction, which a party has a duty to disclose, constitutes fraud as actual as by affirmative misrepresentation." Daffin v. Daffin, 567 S.W.2d 672, 677 (Mo.App., K.C.D. 1978). The facts concerning the 1995 offense and the 1996 revocation are material. They are grounds for refusal of the license and impact on the exercise of the Director's discretion. Without any indication from Applicant as to why the conviction and revocation were not disclosed, especially after he has been asked about them on previous applications, the only conclusion that can be made is that Applicant intended to deceive and misrepresent his criminal and regulatory history.

20. In applying this discretion, the Director has considered the history of the Applicant and all of the circumstances surrounding the Application, including the numerous attempts of investigators to obtain information from Applicant, his failures to respond and the revocation of his license in another state. The Applicant's history raises additional questions regarding Applicant's ability to comply with Missouri law and whether he has demonstrated that he can meet the significant responsibilities of a licensed insurance producer in the near future. The Director is unable to place the seal of the state's approval on Applicant. For all of these reasons, the Director exercises his discretion in refusing to license the Applicant.

21. The Director, in making this decision, has considered all of the information within the whole record of the Application as presented by the Applicant as well as the Consumer Affairs Division. Any failure to specifically address a piece of evidence, information, position or argument of any party does not indicate that the Director has failed to consider relevant information, but indicates rather that the omitted material was not dispositive of the Director's decision.

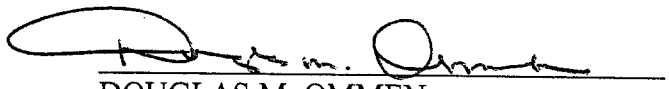
22. This order is in the public interest.

## ORDER

IT IS THEREFORE ORDERED that the issuance of the insurance producer license of Applicant William Joseph Dillard is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 13th DAY OF November, 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 13th day of November, 2007, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified mail.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff