STATE OF MISSOURI
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Donovan Edington,	)	Case No. 08A000310
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
500 Bentley Drive #4	)	
Marion, Iowa 52303	)	
	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On June 15, 2009, Elfin L. Noce, as Legal Counsel for the Division of Consumer Affairs, submitted a Petition to the Director alleging cause for refusing to issue the insurance producer license application of Donovan Edington ("Edington"). 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. Donovan Edington ("Edington") is an Iowa resident with an address of 500 Bentley Drive #4, Marion, Iowa 52303.

2. On April 17, 2008, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received the electronic Uniform Application for Non-Resident Individual Producer License ("Application").

3. Under "Background Questions," question #1 of the Application asks: "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"

4. Edington answered "Yes" to this question.

5. Along with the Application, Edington submitted court documents from the Iowa District Court in and for Linn County that accused Edington of Possession of a

Controlled Substance (marijuana) in violation of 124.401(5), Code of Iowa and a written statement in which Edington explained the charge.

6. In his written statement attached to the Application, Edington stated: "December 18, 2007 I was charged with Possession of a Controlled Substance. I had a few friends over in celebration of my friend's graduation. The police were called because of noise. When they arrived they found a small amount of marijuana at my house and on my friend. My friend was also charged."

7. On April 23, 2008, Special Investigator Dana Whaley ("Whaley") mailed a letter to Edington requesting further information on whether the charge was a misdemeanor or a felony. Whaley gave Edington until May 3, 2008 to respond to this letter.

8. Edington did not respond to the April 23, 2008 letter within 20 days of April 23, 2008.

9. On June 2, 2008, Whaley sent Edington a second letter requesting Edington to provide information regarding the nature of the charge he disclosed and an update on the trial that was scheduled for May 12, 2008. Whaley requested a response on or before June 12, 2008.

10. Edington did not respond to the June 2, 2008 letter within 20 days of June 2, 2008.

11. As of June 15, 2009, Edington has not provided a written response to either the April 23, 2008 letter or the June 2, 2008 letter.

CONCLUSIONS OF LAW

12. Section 375.141, RSMo (Supp. 2008) provides, in part:

1. 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, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

. . .

13. 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

. . .

(2) Except as required under subsection (2)(B)—

> (A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry...
>
> (B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

. . .

14. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

15. The principal purpose of § 375.141, RSMo is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo.App. E.D. 1984).

16. Edington may be refused an insurance producer license based upon § 375.141.1(2), RSMo (Supp. 2008), for violating 20 CSR 100-4.100 by failing to provide an adequate response to inquiries from the Department's Division of Consumer Affairs within twenty (20) days of the Division's inquiry.

17. The Director has considered the history of Edington and all of the circumstances surrounding Edington's Application. Edington's failure to respond to repeated inquiries by the Department and failure to produce requested documents demonstrates a pattern of neglect that makes issuance of an insurance producer license not in the interest of the public. For these reasons, the Director exercises his discretion in refusing to issue an insurance producer license to Edington.

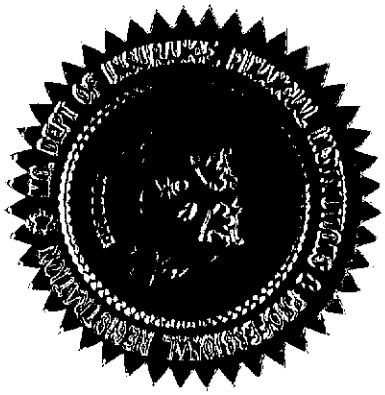
18. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that issuance of the insurance producer license of Applicant Donovan Edington is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 19th DAY OF JUNE, 2009.



JOHN M. HURT
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 thirty (30) days after the mailing of this notice pursuant to Section 621.120, RSMo.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of June, 2009, a copy of the foregoing notice and order was served upon the Applicant in this matter by certified mail.

Karen Crutchfield

Karen Crutchfield
Senior Office Support Staff