



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:)
)
 BRIAN D. BROWN,) Case No. 160322189C
)
 Applicant.)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On September 1, 2016, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Brian D. Brown. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Brian D. Brown ("Brown") is a Missouri resident with a business, residential, and mailing address of 13018 Autumn Fields Court, St. Louis, Missouri 63146.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") received Brown's electronic application for an individual resident insurance producer license ("Application") on December 5, 2015.
3. The "Attestation" section of the Application, states, in relevant part:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

4. Brown accepted the "Attestation" section of the Application.
5. Background Question No. 1B of the Application asks:

Have you ever been convicted of a felony, had a judgment withheld or

deferred, or are you currently charged with committing a felony? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).

6. Brown marked “Yes” to Background Question No. 1B on his Application and provided a letter and documentation related to the following conviction:
 - a. On August 6, 2015, Brown pled guilty to DWI – Alcohol – Persistent Offender, a Class D Felony, in violation of § 577.010 RSMo.¹ *State v. Brian D. Brown*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02040-01. The court suspended execution of a four (4) year sentence of incarceration, placed Brown on supervised probation for five (5) years and ordered Brown to refrain from drinking and driving, submit to alcohol evaluation and treatment, install an ignition interlock device, perform 480 hours of community service within two (2) years, and complete ninety (90) days of Soberlink. *Id.*
7. Brown was charged by Information on December 12, 2012 with DWI – Alcohol – Persistent Offender, a Class D Felony, in violation of § 577.010. *State v. Brian D. Brown*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02040-01. The Information included the following regarding Brown’s underlying guilty pleas and convictions that form the basis for the felony charge in case number 12SL-CR02040-01:

[O]n or about April 25, 2000, defendant was convicted of driving while intoxicated, for events occurring on October 8[,] 1999, in the Circuit Court of St. Charles County, and on or about November 20, 1997, defendant had pleaded guilty to [or] had been found guilty of driving while intoxicated, for events occurring on February 16, 1997, in the Municipal Court of the City of Chesterfield.

8. Background Question No. 7 of the Application asks:

Do you have a child support obligation in arrearage?

7A. If you answer yes, a) by how many months are you in arrearage?

7B. b) are you currently subject to and in compliance with any repayment agreement?

7C. c) are you the subject of a child support related subpoena/warrant? (If you answered yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency).

¹ All references to criminal statutes are to those contained in the version of the Missouri Revised Statutes under which the court rendered judgment.

9. Brown marked “Yes” to Background Question No. 7 and further indicated that he was “22” months in arrearage in response to Background Question 7A.

10. Brown provided a letter with his Application in reference to his child support obligation in which he explained:

I am currently paying on a regular basis. There is not a repayment agreement or any child support related subpoena/warrant. Because I am self employed I have the potential to gain large commissions and pay larger amounts to become current. Please grant me this license so I will have the opportunity to become current with this matter.

11. Brown did not provide documentation showing proof of current payments from the appropriate state child support agency as requested on the Application.

12. On December 17, 2015, in response to a request for documentation from the Consumer Affairs Division (“Division”), Brown provided a payment history for his child support obligation in case number 2197FC-09832. On August 31, 2016, the Division obtained another payment history for the same case. The payment histories evidence the following child support order and arrearage:

a. On November 4, 1998, an order was entered requiring Brown to pay a monthly support obligation of \$1,136.00. *Brian David Brown v. K.B.*², St. Louis Co. Cir. Ct., Case No. 2197FC-09832. On January 14, 2009, the court granted Brown’s request to modify his monthly support obligation and ordered Brown to pay \$444.00 per month. *Brian David Brown v. K.B.*, St. Louis County Cir. Ct., Case No. 2197FC-09832-04. The court order modifying Brown’s monthly support obligation included a term allowing the \$444.00 monthly support obligation to be retroactively applied to March 2007. *Id.* Brown owed \$11,128.28 in child support arrears to K.B. as of December 2015 when the Department received Brown’s Application. As of August 31, 2016, Brown owed \$14,938.46 in arrears and has only made two (2) payments toward his monthly obligation in 2016, \$50.00 in February and \$100.00 in August, respectively.

b. The payment history Brown provided to the Division evidences the following:

- i. On December 5, 2014, Brown made a child support payment of \$50.00.
- ii. On January 5, 2015, Brown made a child support payment of \$50.00.

² The identity of the custodial parent has been protected by the use of initials.

- iii. On February 11, 2015, Brown made a child support payment of \$100.00.
 - iv. On April 17, 2015, Brown made a child support payment of \$50.00.
 - v. On June 22, 2015, Brown made a child support payment of \$50.00.
 - vi. On October 15, 2015, Brown made a child support payment of \$307.38.
 - vii. On October 28, 2015, Brown made a child support payment of \$138.46.
 - viii. On November 13, 2015, Brown made a child support payment of \$138.46.
 - ix. On November 25, 2015, Brown made a child support payment of \$138.46.³
- c. The payment history the Department obtained on August 31, 2016 evidences that Brown made child support payments of \$35.82 on December 9, 2015, \$50.00 on February 26, 2016, and \$100.00 on August 4, 2016.

13. In the twenty-one (21) months from December 2014 to August 2016, Brown only paid the full amount of the \$444.00 monthly child support obligation in one month, October 2015. Brown's child support payments were not on a regular basis from December 2014 to August 2016.

CONCLUSIONS OF LAW

14. Section 375.141 RSMo (Supp. 2013)⁴ provides, in relevant 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:
 - (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;
- * * *
- (6) Having been convicted of a felony or crime involving moral turpitude; [or]

* * *

³ Upon information and belief, the October and November 2015 payments were through garnishment or income withholding, not by voluntary payment.

⁴ All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement unless otherwise noted.

(13) Failing to comply with an administrative or court order imposing a child support obligation[.]

15. “A guilty plea is an admission to the facts in the indictment or information.” *Thurman v. State*, 263 S.W.3d 744, 752 (Mo. App. E.D. 2008).
16. “‘Moral turpitude’ has been defined as ‘an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything ‘done contrary to justice, honesty, modesty, and good morals’.” *Brehe v. Mo. Dep’t of Elem. & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007), citing *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985), quoting *In re Wallace*, 19 S.W.2d 625 (Mo. banc 1929).
17. The Director may refuse to issue an individual resident insurance producer license to Brown pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete or untrue information in his Application when Brown, in response to Background Question No. 7 relating to his child support arrearage, alleged he was “currently paying on a regular basis.” The payment history associated with *Brian David Brown v. K.B.*, St. Louis Co. Cir. Ct., Case No. 2197FC-09832-04 evidences that in the twenty-one (21) months from December 2014 to August 2016, Brown only paid the full amount of the \$444.00 monthly child support obligation in one month, October 2015. The fact that Brown owed \$11,128.28 in child support arrears to K.B. as of December 2015 when the Department received Brown’s Application indicates that Brown’s child support payments were not on a regular basis from December 2014 to December 2015. As of August 31, 2016, Brown owes \$14,938.46 in arrears and has only made two (2) payments toward his monthly child support obligation in 2016, \$50.00 in February and \$100.00 in August, while his Application remained pending with the Department.
18. The Director may refuse to issue an individual resident insurance producer license to Brown pursuant to § 375.141.1(6) because he has been convicted of a felony: DWI – Alcohol, Persistent Offender, a Class D Felony. *State v. Brian D. Brown*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02040-01.
19. The Director may refuse to issue an individual resident insurance producer license to Brown pursuant to § 375.141.1(6) because Brown has been convicted of a crime involving moral turpitude; namely: DWI – Alcohol, Persistent Offender, a Class D Felony, due to his repeated Driving While Intoxicated violations. *State v. Brian D. Brown*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02040-01.

20. The Director may refuse to issue an individual resident insurance producer license to Brown pursuant to § 375.141.1(13) because Brown failed to comply with an administrative or court order imposing a child support obligation. *Brian David Brown v. K.B.*, St. Louis Co. Cir. Ct., Case No. 2197FC-09832-04. Brown has only made two (2) payments toward his monthly obligation in 2016, \$50.00 in February and \$100.00 in August. Brown owed \$11,128.28 in child support arrears to K.B. as of December 2015 when the Department received Brown's Application. As of August 31, 2016, Brown owes \$14,938.46 in arrears.
21. The above described instances are grounds upon which the Director may refuse to issue Brown an individual resident insurance producer license.
22. Brown's criminal conviction, as well as his misleading assertion regarding his payment of child support on a regular basis, demonstrates that issuing Brown an insurance producer license would not be in the public interest.
23. The Director has considered Brown's history and all of the circumstances surrounding Brown's Application. Granting Brown an insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue an insurance producer license to Brown.
24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the application for an individual resident insurance producer license of Brian D. Brown is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 16th DAY OF SEPTEMBER, 2016.



JOHN M. HUFF
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. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

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CERTIFICATE OF SERVICE

I hereby certify that on September 6th, 2016 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, signature required, at the following address:

Brian D. Brown
13018 Autumn Fields Court
St. Louis, Missouri 63146

Tracking No. 1Z0R15W84299608566



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