State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JOSEPH E. CALDRONE,	)	**Case No. 120509394C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On July 19, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Joseph E. Caldrone. 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. Joseph E. Caldrone, ("Caldrone") is currently a Missouri resident with a residential address of 5000 Norwood, Kansas City, Missouri 64133.

2. On September 23, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Caldrone's Application for an individual resident insurance producer license ("Application").

3. The "Attestation" section of the Application, states, in relevant part:

   1. I hereby certify, under penalty of perjury, that 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. Caldrone accepted the "Attestation" section.

5. Background Question No. 1 of the Application asks the following:

   Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations and misdemeanor convictions or pending misdemeanor charges involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.

If you answer yes, you must attach to this application:
a) a written statement explaining the circumstances of each incident,
b) a copy of the charging document, and
c) a copy of the official document which demonstrates the resolution of the charges or any final judgment[.]

6. Caldrone marked "Yes" to Background Question No. 1. Caldrone provided a letter and copies of court documents for the following cases with his Application:

a. On October 7, 1999, Caldrone pleaded guilty to Sale of L.S.D., a felony, in violation of K.S.A. 65-4161. The court sentenced Caldrone to twenty-eight (28) months' confinement in the Kansas Department of Corrections and twenty-four (24) months' probation. In his letter, Caldrone referred to this conviction as "felony possession of a controlled substance" and explained that he had two bags of drugs in his pocket and was charged with intent to distribute, regardless of his intent for self-consumption. Caldrone also provided copies of the Complaint, Journal Entry of Judgment, and Order of Probation/Parole. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 99CR1460.

b. On December 19, 2005, Caldrone pleaded guilty to two felonies. In Count I Caldrone pleaded guilty to Aggravated Battery, a felony, in violation of K.S.A. 21-3414. The court sentenced Caldrone to twenty-nine (29) months' confinement in the Kansas Department of Corrections, twenty-four (24) months' probation, twelve (12) months' Post Release Supervision, and thirty (30) days' House Arrest. In Count II, Caldrone pleaded guilty to Criminal Threat, a felony, in violation of K.S.A. 21-3419. The court sentenced Caldrone to seven (7) months' confinement in the Kansas Department of Corrections, twelve (12) months' probation, and twelve (12) months' Post Release Supervision. The sentence imposed in Count II was ordered to run consecutive to the sentence imposed in Count I. In the letter he submitted with his Application, Caldrone referred to these convictions as "felony assault and felony criminal threat" and explained that in an attempt to defend himself during a bar fight, he broke a guy's nose and was accused of threatening him. Caldrone also provided copies of the Complaint, Journal Entry of Judgment, and Order. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 05CR0028.

7. During its investigation, the Consumer Affairs Division ("Division") discovered the following convictions that Caldrone failed to disclose:

   a. On September 7, 1999, Caldrone pleaded guilty to Theft, a Class A Misdemeanor, in violation of K.S.A. 21-3701. The court sentenced Caldrone to one hundred eighty (180) days' confinement in the county jail. *State of Kansas v. Joseph E. Caldrone*, Johnson Co. Dist. Ct., Case No. 99CR1468.

   b. On February 23, 2000, Caldrone pleaded guilty to Criminal Damage to Property, a Class B Misdemeanor, in violation of K.S.A. 21-3720. The court sentenced Caldrone to six (6) months' confinement in the county jail. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 00CR0026.

   c. On October 10, 2006, Caldrone pleaded guilty to Violation of a Protection Order, a Class A Misdemeanor, in violation of K.S.A. 21-3843. The court sentenced Caldrone to twelve (12) months' confinement in the county jail and twelve (12) months' probation. Said sentence was ordered to run consecutive to the sentences imposed in Case No. 05CR0028. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 06DV1331.

CONCLUSIONS OF LAW

8. Section 375.141 RSMo (Supp. 2011)[1] 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:

   (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;

   * * *

   (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;

   * * *

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

9. The principal purpose of § 375.141 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).

[1] All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2011) unless otherwise noted.

10. Caldrone may be refused an individual resident insurance producer license pursuant to § 375.141.1(1) because he intentionally provided incomplete information in the license application when he failed to disclose and failed to provide the required documentation regarding his misdemeanor convictions in response to Background Question No. 1, to wit:

    a. *State of Kansas v. Joseph E. Caldrone*, Johnson Co. Dist. Ct., Case No. 99CR1468 (Theft, a Class A Misdemeanor, in violation of K.S.A. 21-3701).

    b. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 00CR0026 (Criminal Damage to Property, a Class B Misdemeanor, in violation of K.S.A. 21-3720).

    c. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 06DV1331 (Violation of a Protection Order, a Class A Misdemeanor, in violation of K.S.A. 21-3843).

11. Each failure to disclose and failure to provide the required documentation is a separate and sufficient cause for refusal pursuant to § 375.141.1(1).

12. Caldrone may be refused an individual resident insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose and failed to provide the required documentation regarding his misdemeanor convictions in response to Background Question No. 1, to wit:

    a. *State of Kansas v. Joseph E. Caldrone*, Johnson Co. Dist. Ct., Case No. 99CR1468 (Theft, a Class A Misdemeanor, in violation of K.S.A. 21-3701).

    b. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 00CR0026 (Criminal Damage to Property, a Class B Misdemeanor, in violation of K.S.A. 21-3720).

    c. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 06DV1331 (Violation of a Protection Order, a Class A Misdemeanor, in violation of K.S.A. 21-3843).

13. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause for refusal pursuant to § 375.141.1(3).

14. Caldrone may be refused an individual resident insurance producer license pursuant to § 375.141.1(6) because he has been convicted of three (3) felonies:

    a. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 99CR1460 (Sale of L.S.D., a felony, in violation of K.S.A. 65-4161).

b. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 05CR0028 (Aggravated Battery, a felony, in violation of K.S.A. 21-3414).

c. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 05CR0028 (Criminal Threat, a felony, in violation of K.S.A. 21-3419).

15. Each felony conviction is a separate and sufficient cause for refusal pursuant to § 375.141.1(6).

16. Caldrone may be refused an individual resident insurance producer license pursuant to § 375.141.1(6) because he has been convicted of two (2) crimes of moral turpitude:

a. *State of Kansas v. Joseph E. Caldrone*, Johnson Co. Dist. Ct., Case No. 99CR1468 (Theft, a Class A Misdemeanor, in violation of K.S.A. 21-3701).

b. *State of Kansas v. Joseph Eugene Caldrone*, Johnson Co. Dist. Ct., Case No. 06DV1331 (Violation of a Protection Order, a Class A Misdemeanor, in violation of K.S.A. 21-3843).

17. Each conviction of a crime of moral turpitude is a separate and sufficient cause for refusal pursuant to § 375.141.1(6).

18. The Director has considered Caldrone's history and all of the circumstances surrounding Caldrone's Application. Granting Caldrone an individual resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue an individual resident insurance producer license to Caldrone.

19. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the individual resident insurance producer license application of **Joseph E. Caldrone** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 19TH **DAY OF** JULY**, 2012.**

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.

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of July, 2012 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

Joseph E. Caldrone
5000 Norwood
Kansas City, MO 64133

Certified No. 7009 3410 0001 8931 3421

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