State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
EVER ELISEO CONTRERAS,	)	**Case No. 150213091C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On July 20, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging grounds to refuse to issue a non-resident insurance producer license to Ever Eliseo Contreras. 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. Ever Eliseo Contreras ("Contreras") is a Texas resident with a residential and mailing address of 1131 Marshall Drive, Euless, Texas 76039.

2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") received Contreras's application for a non-resident insurance producer license ("Application") on October 15, 2014.

3. Background Question No. 1B of the Application asked the following, in part:

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

4. Contreras answered "Yes" in response to Background Question No. 1B.

5. Contreras submitted a letter to further explain his response to Background Question No. 1B, in which he stated, verbatim, in part:

   In 2004 I was convicted of a felony for which I was sentenced to 8 years in TDCJ from which I served 4 years in TDCJ and 4 on probation. I was involved in an altercation with another individual in which he was injured and I was charged with assault.

6. Court records revealed that on July 21, 2004, Contreras pled guilty to and was convicted of Aggravated Assault, a Second Degree felony. The court found that Contreras "used or

exhibited [a firearm] during the commission of said offense." The court sentenced Contreras to eight (8) years' confinement. *Texas v. Ever Eliseo Contreras*, Dallas Co. Crim. Dist. Ct., Case No. F-0432203.

7. After reviewing Contreras's Application and his criminal record, Special Investigator Dana Whaley ("Special Investigator Whaley") sent an inquiry letter dated June 18, 2015, to Contreras's residential and mailing address as listed on his Application. Said letter requested a detailed explanation of the circumstances surrounding the incident, what led up to the shooting, and what Contreras has done to ensure this type of incident does not occur in the future. The inquiry letter further requested a response within twenty (20) days pursuant to 20 CSR 100-4.100.

8. The United States Postal Service did not return the June 18, 2015 inquiry letter to the Division, and therefore it is presumed received by Contreras.

9. Contreras failed to provide a written response to the Division's June 18, 2015 inquiry letter within twenty (20) days pursuant to 20 CSR 100-4.100, and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

10. Section 375.141 RSMo (Supp. 2013)[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:
>
> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> * * *
>
> (6) Having been convicted of a felony or crime involving moral turpitude[.]

11. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

> 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. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule,

[1] All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

unless the person can demonstrate that there is reasonable justification for that delay.

12. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

13. 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).

14. The Director may refuse to issue a non-resident insurance producer license to Contreras pursuant to § 375.141.1(2) because he failed to adequately respond to an inquiry letter from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation.

15. The Director may refuse to issue a non-resident insurance producer license to Contreras pursuant to § 375.141.1(6) because he has been convicted of a felony:

    a. *Texas v. Ever Eliseo Contreras*, Dallas Co. Dist. Ct., Case No. F-0432203 (Aggravated Assault, a Second Degree Felony).

16. The Director has considered Contreras's history and all of the circumstances surrounding Contreras's Application. Granting Contreras a non-resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a non-resident insurance producer license to Contreras.

17. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license application of **Ever Eliseo Contreras** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20th **DAY OF** July, **2015.**

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 21st day of July, 2015, 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 addresses:

Ever Eliseo Contreras
1131 Marshall Drive
Euless, TX 76039

No. 1Z0R15W84298118614

Kathryn Latimer

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