



State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION**

In the Matter of:)
)
Gordon Russell,) **Case No. 141110736C**
)
Applicant.)

ORDER REFUSING TO ISSUE PUBLIC ADJUSTER LICENSE

On January 6, 2015, Tamara W. Kopp, counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a public adjuster license to Gordon Russell. 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. Gordon Russell (“Russell”) is an individual residing in Missouri with a residential address of 1800 Engelholm Avenue, St. Louis, Missouri 63133.

2. On or about February 27, 2013, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Russell’s completed Uniform Application for Public Adjuster, Public Adjuster Solicitor, or Surplus Lines (“Application”) seeking a public adjuster license.

3. Application Background Question C asks: “Have you ever been convicted of or pled nolo contendere (no contest) to any misdemeanor or felony, or currently have pending misdemeanor or felony charges filed against you? (Misdemeanor does not mean minor traffic violations).”

4. Russell answered “Yes” to Background Question C and disclosed the following felony conviction:

On or about April 1, 2002, Russell pled guilty to the Class C Felony of Domestic Assault – 2nd Degree in violation of § 565.073, RSMo. The court suspended imposition of sentence and placed Russell on probation until May 5, 2006, when the court revoked said probation and sentenced Russell to six months in the St. Louis County Jail. *State v. Gordon L. Russell*, St. Louis Co. Cir. Ct., Case No. 2101R-03415-01.

5. Russell did not disclose two additional felony convictions in response to Background Question C:

On or about May 5, 2006, Russell pled guilty to two counts of the Class D Felony of Nonsupport in violation of § 568.040, RSMo.¹ The court suspended imposition of sentence and placed Russell on probation until February 8, 2007 when the court revoked Russell's probation. On February 15, 2007, the court sentenced Russell to nine months in the St. Louis County Jail. *State v. Gordon L. Russell*, St. Louis Co. Cir. Ct., Case No. 2104R-04360-01.

6. Part V of the Application, titled Applicant Signature, states as follows:

This applicant first being duly sworn upon his/her oath, states that the statements contained in the above and foregoing application are true to the best of his/her knowledge and belief.

7. Russell signed his name as the Applicant in Part V of the Application.

8. Russell failed to disclose the above-referenced Felony Non-Support convictions when he submitted his Application to the Department.

CONCLUSIONS OF LAW

9. Section 325.030 RSMo 2000 provides, in relevant part:

1. The director shall issue the proper license when the requirements of sections 325.010 to 325.055 have been met, and a person receiving the license shall thereafter be known and styled a "licensed public adjuster", or "licensed public adjuster solicitor", as the case may be.

* * *

3. Notwithstanding subsection 1, the director **shall not issue** a license to any person who has been convicted of a felony or other crime involving fraudulent or dishonest practices; and shall have the power to revoke, suspend or refuse a license as hereinafter provided. (Emphasis added.)

10. Section 325.035 RSMo 2000 provides, in relevant part:

1. Whenever the director shall be satisfied that an applicant for a license does not have the necessary qualifications to engage in the public adjustment business, or when he shall be satisfied that a holder of such license has engaged in false, fraudulent or misleading business practices, the director may refuse to issue the license or may revoke or suspend the

¹ The Class D Felony is described as Nonsupport in Each of Six Individual Months Within Any Twelve Month Period, Amount Owed is in Excess of \$5,000.

license. Such refusal, revocation or suspension shall be accomplished pursuant to the provisions of chapter 621 and shall be based on one or more of the following grounds:

* * *

(2) Any ground under subdivisions (2) to (12) of subsection 1 of section 375.141.

11. Section 375.141 RSMo (Supp. 2013), 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:

* * *

(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[.]

12. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, 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), the purpose of § 325.035 is not to punish applicants for a public adjuster license, but to protect the public.

13. The Director may refuse to issue a public adjuster license to Russell pursuant to § 375.141.1(3), as incorporated by § 325.035.1(2), because Russell attempted to obtain a public adjuster license through material misrepresentation or fraud by failing to disclose two convictions for Class D Felony Nonsupport when he submitted his Application to the Department and signed the Application attesting that the information provided in the Application was “true to the best of his/her knowledge and belief.”

14. Russell’s failure to disclose each Class D Felony Nonsupport conviction on his Application is a separate and sufficient cause to refuse to issue a public adjuster license to Russell pursuant to § 375.141.1(3), as incorporated by § 325.035.1(2).

15. The Director may refuse to issue a public adjuster license to Russell pursuant to § 375.141.1(6), as incorporated by § 325.035.1(2), because Russell was convicted of three felonies, each of which is a separate and sufficient ground for refusal pursuant to § 375.141.1(6), as incorporated by § 325.035.1(2).

16. The Director must refuse to issue a public adjuster license to Russell pursuant to § 325.030.3 because Russell has been convicted a felony, in fact three felonies, and § 325.030.3 provides that the “director shall not issue a license to any person who has been convicted of a felony[.]”

17. The Director has considered Russell’s history and all of the circumstances surrounding his Application. As such, granting Russell a public adjuster solicitor license would not be in the interest of the public. For all of the reasons stated in this Order, the Director exercises his discretion by refusing to issue Russell a public adjuster license and does so in accord with the mandate set forth in § 325.030.3.

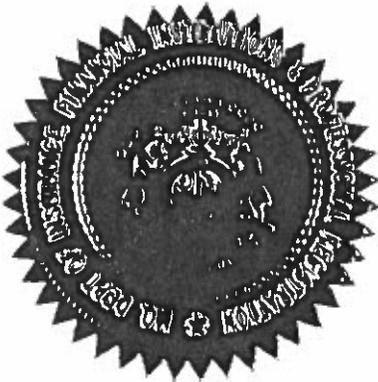
18. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the application for a public adjuster license of **GORDON RUSSELL** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 7TH DAY OF JANUARY, 2015.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

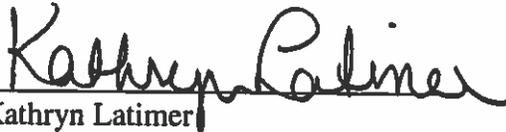
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within (30) days after the mailing of this notice pursuant to § 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your 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 7th day of January, 2015, a copy of the foregoing notice and order was served upon Gordon Russell in this matter by UPS with signature required, at the following address:

Gordon Russell
1800 Engelholm Avenue
St. Louis, MO 63133

Tracking No. 1Z0R15W84299678446



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