State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
	)	Case No. 111229918C
David C. Johnson,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
9550 Copper Creek Court	)	
Miamisburg, Ohio 45342	)	

ORDER REFUSING TO ISSUE NON-RESIDENT INSURANCE PRODUCER LICENSE

On January 5, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a non-resident insurance producer license to David C. Johnson. 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 summary order.

FACTUAL BACKGROUND

1. David C. Johnson ("Johnson") is an individual residing in Ohio whose residence and mailing address is 9550 Copper Creek Court, Miamisburg, Ohio 45342. Johnson's business address is 9797 Springboro Pike, Dayton, Ohio 45448.

2. On or about July 8, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic Uniform Application for Individual Insurance Producer License ("Application") submitted on Johnson's behalf.

3. In the section of the Application headed "Background Questions," Background Question #1 asks, "Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime? . . . Conviction includes, but is not limited to, having

been found guilty by verdict of a judge or jury, having entered plea of guilty or nolo contendere, or having been given probation, or suspended sentence or a fine." Johnson answered "Yes" to Background Question #1.

4. With his Application, Johnson included copies of court records that disclosed the following:

   a. On July 17, 1989, Johnson pled guilty to fourth degree felony grand theft, and on September 8, 1989, the court sentenced Johnson to 18 months suspended imprisonment. *State of Ohio v. David Clark Johnson*, Greene County Ohio Court of Common Pleas, No. 89CR155.
   b. On December 17, 1990, Johnson pled guilty to fourth degree felony grand theft, and on January 18, 1991, the court sentenced Johnson to 18 months suspended imprisonment. *State of Ohio v. David C. Johnson*, Greene County Ohio Court of Common Pleas, No. 90-CR-375.
   c. The court released Johnson from probation on February 9, 1994, and the above referenced criminal cases were dismissed.

5. On August 2, 2011, Consumer Affairs Division Investigator Keith Hendrickson ("Hendrickson") sent a letter to Johnson at his mailing address with sufficient postage attached. Hendrickson's letter inquired into Johnson's criminal history and required a response by August 23, 2011. The letter was not returned as undeliverable. Johnson never provided a written response or justification for a delayed response.

6. On October 5, 2011, Consumer Affairs Division Investigator Karen Crutchfield ("Crutchfield") sent a letter to Johnson at his mailing address and his business address with sufficient postage attached. Crutchfield's letter inquired into Johnson's criminal history and required a response by October 26, 2011. The letters were not returned as undeliverable and Johnson never provided a written response or justification for a delayed response.

7. On October 28, 2011, Crutchfield sent a letter to Johnson at his mailing and business address by certified mail with sufficient postage attached. Crutchfield's letter inquired into Johnson's criminal history and required a response by November 18, 2011. The letters were claimed, but Johnson never provided a written response or justification for a delayed response.

JURISDICTION AND STATUTORY GROUNDS FOR REFUSAL

8. Section 375.141.1 RSMo Supp. 2011,[1] provides, in part:

> 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:
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> * * *
>
> (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[.]

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

> (2)(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. 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, unless the person can demonstrate that there is reasonable justification for that delay.

10. "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).

11. 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. 1984).

12. Johnson may be refused an insurance producer license pursuant to §375.141.1(2), because by failing to respond to three inquiries dated August 2, 2011, October 5, 2011, and October 28, 2011, from the

[1] All statutory references are to the 2011 Supplement to the Revised Statutes of Missouri, unless otherwise indicated.

Consumer Affairs Division concerning his criminal history, Johnson violated a Missouri insurance regulation, namely 20 CSR 100-4.100(2)(A).

13. Johnson may be refused an insurance producer license pursuant to §375.141.1(6), because he was convicted of two felonies. *State of Ohio v. David Clark Johnson*, Greene County Ohio Court of Common Pleas, No. 89CR155; *State of Ohio v. David C. Johnson*, Greene County Ohio Court of Common Pleas, No. 90-CR-375.

14. The Director has considered Johnson's history and all of the circumstances surrounding Johnson's Application for licensure and exercises his discretion in summarily refusing to grant Johnson's insurance producer license.

15. Granting Johnson's insurance producer license would not be in the public interest.

16. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license application of **David C. Johnson** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 6TH DAY OF JANUARY, 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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to §621.120, RSMo. Under 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 11th day of January, 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:

David C. Johnson
9550 Copper Creek Court
Miamisburg, Ohio 45342

Certified Mail No. 7008 2810 0000 2014 8892

Kathryn Randolph

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