State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	Case No. 110411457C
Kenneth M. Shaw,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
6575 Julian Ave.	)	
St. Louis, MO 63133	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On July 5, 2011, the Consumer Affairs Division, through counsel submitted a Petition to the Director alleging cause for refusing to issue Kenneth M. Shaw's insurance producer license. 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. Kenneth M. Shaw ("Shaw") is an individual residing in Missouri. His mailing and residence address is 6575 Julian Ave., St. Louis, Missouri 63133.

2. On January 22, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a Uniform Application for Individual Insurance Producer License ("Application") from Shaw.

3. On the Application, in the section titled "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?"

4. Shaw answered "No" to Background Question # 1.

5. Special Investigator Keith Hendrickson ("Hendrickson") discovered that

Shaw had an extensive criminal background that he had not disclosed on his Application. Shaw's undisclosed criminal history included the following:

a. On August 14, 1989, Shaw was indicted by a grand jury on two C class felony counts of Burglary Second Degree, one C class felony count of Stealing Over $150, and one D class felony of Stealing. Shaw pleaded guilty to all four counts and the court suspended the imposition of sentence and placed Shaw on five years probation. On January 25, 1991, the court found Shaw had violated probation, entered judgment against Shaw, and sentenced him to three years' incarceration to run concurrently with Case Nos. 2190-00897-01 and 22901-02591-01. *See State v. Kenneth Shaw*, City of St. Louis, Case No. 891-0796.

b. On October 19, 1990, Shaw pled guilty to a C class felony of Stealing $150 or More. The Court sentenced Shaw to three years' incarceration to run concurrently with Case Nos. 891-0796 and 22901-02591-01. *See State v. Kenneth Melvin Shaw Jr.*, St. Louis County, Case No. 2190-00897-01.

c. On January 10, 1991, Shaw pled guilty to a C class felony of Burglary Second Degree. The Court sentenced Shaw to three years' incarceration to run concurrently with Case Nos. 891-0796 and 2190-00897-01. *See State v. Kenneth Melvin Shaw*, City of St. Louis, Case No. 22901-02591-01.

d. On May 11, 1995, Shaw pled guilty to a C class felony of Stealing $150 or More, and a B class misdemeanor of Making a False Report. The Court sentenced Shaw to five years' incarceration for the felony of Stealing $150 or More, and six months' incarceration for the misdemeanor of Making a False Report, both to run concurrently with Case No. 22961-00876-01. *See State v. Kenneth M. Shaw Jr.*, St. Louis County, Case No. 2194R-04377-01.

e. On August 1, 1996, Shaw pled guilty to a B class felony of Robbery Second Degree. The Court sentenced Shaw to 15 years' incarceration. On March 11, 1998, the court suspended the execution of Shaw's sentence and placed Shaw on one year's probation. *See State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22961-00876-01.

f. On March 25, 2003, Shaw pled guilty to a C class felony of Burglary Second Degree and a D class felony of Possession of Burglary Tools.

The Court sentenced Shaw to six years' incarceration for the felony of Burglary Second Degree, and three years' incarceration for the felony of Possession of Burglary Tools, with the sentences to run consecutively. *See State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22021-02275A-01.

On February 4, 2011, Hendrickson contacted Shaw by phone. Shaw acknowledged his felony convictions and that he is currently on probation.

CONCLUSIONS OF LAW

6. Section 375.141 RSMo (Supp. 2010),[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:
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> (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;
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> * * *
>
> (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;
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> * * *
>
> (6) Having been convicted of a felony or crime involving moral turpitude;

7. 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).

8. Shaw may be refused an insurance producer license pursuant to § 375.141.1(1), because by failing to disclose his full criminal record, Shaw intentionally provided materially incorrect, misleading, incomplete and untrue information on his Application. *See State v. Kenneth Shaw*, City of St. Louis, Case No. 891-0796; *State v. Kenneth Melvin Shaw Jr.*, St. Louis County, Case No. 2190-00897-01; *State v. Kenneth Melvin Shaw*, City of St. Louis, Case No. 22901-02591-01; *State v. Kenneth M. Shaw Jr.*, St. Louis County, Case No. 2194R-04377-01; *State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22961-00876-01; *State v. Kenneth M. Shaw*,

[1] All statutory references are to the Revised Statutes of Missouri (Supp. 2010) unless otherwise noted.

City of St. Louis, Case No. 22021-02275A-01.

9. Shaw may be refused an insurance producer license pursuant to § 375.141.1(3), because Shaw's criminal history was material to his Application, and by failing to disclose it he attempted to obtain a license through material misrepresentation or fraud. *See State v. Kenneth Shaw*, City of St. Louis, Case No. 891-0796; *State v. Kenneth Melvin Shaw Jr.*, St. Louis County, Case No. 2190-00897-01; *State v. Kenneth Melvin Shaw*, City of St. Louis, Case No. 22901-02591-01; *State v. Kenneth M. Shaw Jr.*, St. Louis County, Case No. 2194R-04377-01; *State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22961-00876-01; *State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22021-02275A-01.

10. Shaw may be refused an insurance producer license pursuant to § 375.141.1(6), because he was convicted of at least six felonies. *State v. Kenneth Shaw*, City of St. Louis, Case No. 891-0796; *State v. Kenneth Melvin Shaw Jr.*, St. Louis County, Case No. 2190-00897-01; *State v. Kenneth Melvin Shaw*, City of St. Louis, Case No. 22901-02591-01; *State v. Kenneth M. Shaw Jr.*, St. Louis County, Case No. 2194R-04377-01; *State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22961-00876-01; *State v. Kenneth M. Shaw*, City of St. Louis, Case No. 22021-02275A-01. Shaw may also be refused an insurance producer license pursuant to § 375.141.1(6) because he was convicted of Burglary Second Degree, Stealing over $150, and Making a False Report, all of which are crimes of moral turpitude. *See State Board of Nursing v. Kelly Castor*, No. 10-0458 BN (Mo. Admin. Hrg. Comm'n February 17, 2011), *State Board of Nursing v. Hope Richmond*, No. 10-0212 BN (Mo. Admin. Hrg. Comm'n May 05, 2011), *Director of Public Safety v. Matthew S. Elder*, No. 08-1014 PO (Mo. Admin. Hrg. Comm'n February 05, 2009). Each felony conviction and each crime or moral turpitude is a separate ground to refuse under § 375.141.1(6).

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

12. Granting Shaw's insurance producer license would not be in the public interest.

13. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of **Kenneth M. Shaw** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 7TH DAY OF JULY, 2011.

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 July, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 7009 3410 0001 9349 2679.

Kenneth M. Shaw
6575 Julian Ave.
St. Louis, MO 63133

Kathryn Randolph

Kathryn Randolph