State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
David A. Watson,	)	Case No. 101118693C
	)	
Applicant.	)	
	)	
Serve:	)	
	)	
J. Martin Hadican	)	
832T Parkway Tower Building	)	
225 South Meramec Ave.	)	
St. Louis, MO 63105	)	
Attorney for Applicant	)	

REFUSAL TO RENEW INSURANCE PRODUCER LICENSE

On March 11, 2011, Andy Heitmann, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew the insurance producer license of David A. Watson. 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:

FINDINGS OF FACT

1. David A. Watson ("Watson") is an individual residing in Missouri, with a mailing address of record of 13 Brookmill Lane, Town and Country, Missouri 63017.

2. Watson may be served by serving his attorney, J. Martin Hadican ("Hadican"), whose address is 832T Parkway Tower Building, 225 South Meramec Avenue, St. Louis, Missouri 63105.

3. Watson was first licensed by the Department of Insurance, Financial Institutions and Professional Registration (the "Department") as an insurance producer on September 10, 1986. The Department most recently renewed Watson's insurance producer license on September 10, 2008.

4. Watson's Missouri insurance producer license expired on September 10, 2010.

5. On or about September 13, 2010, the Department received Watson's Producer Renewal Notice and Continuing Education Certification Summary (collectively, the "Application") with a

check representing the required renewal fee.

6. Shortly before receiving Watson's Application, the Department had received an anonymous complaint alleging that Watson had been convicted of at least one felony charge of driving while intoxicated and that a judgment had been rendered against Watson for failure to pay child support arrearage.

7. On September 15, 2010, Keith Hendrickson ("Hendrickson"), an investigator for the Department's Division of Consumer Affairs, mailed a letter by first class mail advising Watson that the Department had been made aware of Watson's felony conviction but that the Department's records did not indicate that Watson had notified the Department of any arrest, pending charges or convictions. The letter requested a personal written response from Watson responding to the allegations of the complaint, including any certified copies of court records relevant to the alleged felony conviction.

8. On or about October 4, 2010, Hendrickson received a letter from Hadican, dated October 1, 2010, describing two convictions of Watson for felony Driving While Intoxicated and a guilty plea by Watson to misdemeanor charges of non-support.

9. On or about October 19, 2010, Hendrickson received another letter from Hadican. Enclosed with the October 19 letter were copies of certified judgments rendered in the St. Louis County Circuit Court in Watson's two felony Driving While Intoxicated convictions.

10. The court records supplied by Watson consisted of a Plea of Guilty and a Sentence and Judgment in case number 07SL-CR03499-01 and a Plea of Guilty and a Sentence and Judgment in case number 08SL-CR00513-01, all dated February 13, 2009.

11. The Plea of Guilty in case number 07SL-CR03499-01 indicated that Watson pleaded guilty to a D felony count of Driving While Intoxicated stemming from an offense committed on February 27, 2007.

12. The Sentence and Judgment in that case indicated that Watson was sentenced to four years' imprisonment for a D felony count of Driving While Intoxicated, the execution of which sentence was suspended in favor of probation on the condition that Watson complete the "Choices" program within one year. The Sentence and Judgment indicated that Watson's sentence was to be served concurrently with a sentence imposed in case number 08SL-CR00513-01.

13. The Plea of Guilty in case number 08SL-CR00513-01 indicated that Watson pleaded guilty to a D felony count of Driving While Intoxicated stemming from an offense committed on February 9, 2007.

14. The Sentence and Judgment in case number 08SL-CR00513-01 indicated that Watson was sentenced to four years' imprisonment for a D felony count of Driving While Intoxicated, the execution of which sentence was suspended in favor of probation on the condition that Watson complete the "Choices" program within one year.

15. On or about January 26, 2011, Hadican faxed the Department records concerning the history and status of Watson's child support obligation and criminal non-support case. Those records included:

a. The Judgment and Sentence, dated June 3, 2009, in case number 08SL-CR08306 in the Circuit Court of St. Louis County, which corresponded to charges of criminal non-support in violation of § 568.040, RSMo;

b. A billing statement from the State of Missouri Family Support Payment Center, dated November 5, 2010, and indicating that Watson had a Total Support Amount Due by December 15, 2010, of $1,600 and Total Past Due Support of $68,000.

c. A copy of a cashier's check, dated December 28, 2010, in the amount of $ 12,000, payable to the order of "Family Support Payment Center," indicating the "remitter" as Jayne M. Watson.

d. A Certificate of Achievement, dated October 20, 2009, appearing to certify that Watson completed the "Choices" recovery program.

16. The June 3, 2009 Judgment and Sentence indicated that imposition of the sentence against Watson in case number 08SL-CR08306 was suspended in favor of probation for two years upon the condition that Watson pay child support in the amount of $ 2,300 per month ($1,600 per month for current obligations and $700 per month for arrears), beginning July 1, 2009.

17. On or about February 10, 2011, Hadican faxed a letter stating that the IRS had a 100% garnishment against Watson's wages, that Watson had been ordered to pay $2,300 per month in child support, or otherwise as arranged with the IRS, and indicating that should the Department renew Watson's license, Watson would pay his child support first, the IRS second and other bills third.

18. On or about February 11, 2011, Hadican faxed a letter with an attached Collection Information Statement for Wage Earners and Self-Employed Individuals (IRS Form 433-A) signed by Watson. The statement listed Watson's monthly obligation in "Court Ordered Payments" as $2,400.

19. On or about February 18, 2011, Hadican faxed a letter with an attached uncertified copy of a Payment Detailed History Report from the Circuit Court of St. Louis County (the "Payment History"), for the period January 1, 2010 to February 17, 2011.

20. The uncertified Payment History appeared to indicate:

a. A total Principal Owed of $88,000;

b. A total Principal Paid of $25,600;

c. Total Principal Arrears of $62,400;

d. Three payments collected during the period covered by the Payment History:

i. On January 19, 2010, $2,300;

ii. On March 15, 2010, $2,300;

iii. On December 31, 2010, $12,000;

e. No other payments collected between January 1, 2010, and February 17, 2011;

f. A net reduction in the amount of Principal Owed, between January 1, 2010, and February 17, 2011, of $4,800.

21. On July 26, 2006, the Circuit Court of St. Louis County entered a Judgment on Dissolution, ordering Watson to pay $1,600 per month in child support.

22. In case number 07SL-CR03499, the plea hearing was held, and Watson was sentenced, on February 13, 2009.

23. In case number 08SL-CR00513, the plea hearing was held, and Watson was sentenced, on February 13, 2009.

24. In case number 08SL-CR08306, Watson was sentenced on June 3, 2009.

25. Watson did not report to the Director his criminal prosecution for two felony counts of driving while intoxicated within thirty days of the initial pretrial hearing date. Watson did not report those criminal prosecutions until at least October 1, 2010—over a year after he had been sentenced.

26. Watson did not report to the Director his criminal prosecution for criminal nonsupport within thirty days of the initial pretrial hearing date. Watson did not report those criminal prosecutions until at least January 26, 2011—over six months after he had been sentenced.

CONCLUSIONS OF LAW

27. Section 375.141, RSMo (Supp. 2010),[1] provides, in part:

> 1. The director may . . . refuse to renew an insurance producer license for any one or more of the following causes:
>
> * * *

[1] All statutory references are to the Missouri Revised Statutes, 2010 Supplement, unless otherwise indicated.

(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;

* * *

(13) Failing to comply with an administrative or court order imposing a child support obligation[.]

* * *

7. Within thirty days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution for a felony or a crime involving moral turpitude of the producer taken in any jurisdiction. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

28. 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).

29. Section 568.040, RSMo (2000), provided, in part:

1. A person commits the crime of nonsupport if he knowingly fails to provide, without good cause, adequate support for his spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide, without good cause, adequate support which such parent is legally obligated to provide for his child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

* * *

(2) "Good cause" means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his inability to support[.]

30. Criminal nonsupport is a crime of moral turpitude. *In re Warren*, 888 S.W.2d 334, 336 (Mo. 1994).

31. A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruiett v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972).

32. Watson's Application may be refused under § 375.141.1(6) because Watson was

convicted of two counts of Driving While Intoxicated, in violation of § 577.010, RSMo (2000), in cases numbered 07SL-CR03499-01 and 08SL-CR00513-01. Watson was adjudged a "persistent offender" and his convictions accordingly were classified as class D felonies.

33. Watson's Application may be refused under § 375.141.1(13) because Watson failed to comply with a court order imposing a child support obligation. Watson was ordered by the Circuit Court of St. Louis County, on July 26, 2006, to pay child support of $1,600 per month. Watson's plea of guilty to criminal non-support in case number 08SL-CR8306 resulted from and confirmed his failure to comply with the court's order. Watson was further ordered, as part of his probation in case number 08SL-CR8306 to pay $2,300 of child support per month. His repeated failures to comply with that order provide further cause for refusal under this count.

34. Watson's Application may be refused under § 375.141.1(2) because Watson violated § 375.141.7 each time he failed to report, within thirty days of the initial pretrial hearing, his prosecutions for felony driving while intoxicated and his prosecution for criminal nonsupport, a crime of moral turpitude.

35. The Director has considered Watson's history and all of the circumstances surrounding Watson's Application. Watson was convicted of two felony counts of driving while intoxicated. Watson failed to report those criminal prosecutions within thirty days of their pretrial hearing date, in violation of Missouri insurance law. Watson failed to obey a court order obligating him to pay child support. Watson pleaded guilty to criminal nonsupport but did not report his prosecution for that crime of moral turpitude within thirty days of the initial pretrial hearing date. For all of these reasons, the Director exercises his discretion and refuses to renew Watson's insurance producer license.

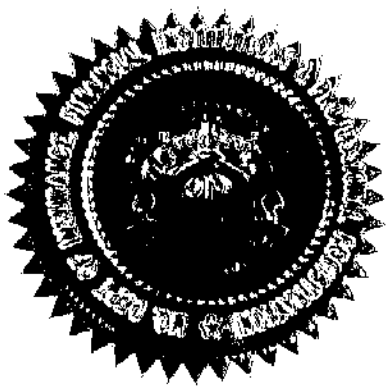
36. An order refusing to renew Watson's insurance producer license is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the renewal of the insurance producer license of David A. Watson is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 13TH DAY OF MARCH, 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 14th day of March, 2011, a copy/duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified/priority mail No. 7009-3410-0001-9349-6431

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