



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

EDWARD ALAN ABEL,

Applicant.

)
)
)
)
)

Case No. 131223677C

ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On March 26, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Edward Alan Abel. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Edward Alan Abel, ("Abel") is a Texas resident with a residential address of 5401 Urbanview, Sansom Park, Texas 76114.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") received Abel's completed Application for a nonresident insurance producer license ("Application") on August 21, 2013.
3. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?
4. Abel answered "Yes" in response to Background Question No. 1.
5. Abel submitted an attachment to further explain his response to Background Question No. 1. His attachment included: two (2) explanation letters, his work history, and various court records.
6. In Abel's first letter, he disclosed he had been convicted of drunkenness twice in 1975, robbery in 1978, larceny in 1985, and aggravated robbery with a deadly weapon

in 1985.

7. In Abel's second letter, he disclosed that he had been arrested for forgery in 1975 and for possession of marijuana in 1976. Abel further explained that the charges were dismissed because he agreed to join the military.
8. Abel also submitted court documents for the following cases:
 - a. On or about November 20, 1978 in the District Court of Travis County, Texas, Abel pled guilty to the First Degree Felony of Aggravated Robbery and was sentenced to not less than five (5) years nor more than fifteen (15) years' incarceration with the Texas Department of Corrections. *State of Texas v. Edward Allen Abel*, Travis Co. Dist. Ct., Case No. 56,224.
 - b. On or about September 20, 1978 in the District Court of Travis County, Texas, Abel was charged with the First Degree Felony of Aggravated Robbery with a Deadly Weapon. Abel did not submit a copy of the judgment or sentence, so disposition in this case is unknown. *State of Texas v. Edward A. Abel*, Travis Co. Dist. Ct., Case No. 56,058.
 - c. On or about January 10, 1986 in the District Court of Tarrant County, Texas, Abel pled guilty to the First Degree Felony of Aggravated Robbery with a Deadly Weapon and was sentenced to twelve (12) years' incarceration with the Texas Department of Corrections. *State of Texas v. Edward Allen Abel*, Tarrant Co. Dist. Ct., Case No. 0272474.
9. After reviewing Abel's Application and his criminal record, Special Investigator Karen Crutchfield ("Special Investigator Crutchfield") sent an inquiry letter dated August 27, 2013 to Abel's residential and mailing addresses as listed on his Application. Said letter requested additional documentation and information about the felony and misdemeanor convictions. The letter further requested a response by September 27, 2013.
10. Special Investigator Crutchfield's first inquiry letter also indicated that Abel's crime(s) may fall under the category where a consent under 18 U.S.C. § 1033 is required. For Abel's convenience, Special Investigator Crutchfield attached an application for the consent to her letter and requested Abel complete and return the application.
11. The United States Postal Service did not return either August 27, 2013 inquiry letter to the Division, and therefore they are presumed delivered.
12. Abel failed to provide a written response to the Division's August 27, 2013 letter by September 27, 2013, and failed to demonstrate a reasonable justification for the delay.

13. Special Investigator Crutchfield sent a second inquiry letter to Abel dated October 24, 2013 that, once again, requested information and documentation about the felony and misdemeanor convictions. Said letter also stated that without further evidence from Abel that he was trying to comply with the Division's requests for information, his license would be refused. The letter further requested a response by November 25, 2013. This letter was mailed to Abel's mailing, residential, and business addresses as listed on his Application.
14. Special Investigator Crutchfield's second inquiry letter also indicated that, because of his crime(s), Abel may be required to complete an application for consent [of the Director] to work in the insurance industry in Missouri. The letter provided the link to such application.
15. The United States Postal Service returned the October 24, 2013 letters addressed to Abel's residential address and business address to the Division.
16. The United States Postal Service did not return the October 24, 2013 letter sent to Abel's mailing address to the Division, and therefore it is presumed delivered.
17. Abel failed to provide a written response to the Division's October 24, 2013 letter by November 25, 2013, and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

18. 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[.]

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

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

20. "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).
21. 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).
22. The Director may refuse to issue an insurance producer license to Abel under § 375.141.1(2) because Abel failed to adequately respond to two (2) separate inquiries from the Division, mailed on August 27, 2013 and October 24, 2013, and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation.
23. Each failure to provide an adequate response and failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal under § 375.141.1(2).
24. The Director may refuse to issue an insurance producer license to Abel under § 375.141.1(6) because Abel has been convicted of two (2) felonies:
- a. *State of Texas v. Edward A. Abel*, Travis Co. Dist. Ct., Case No. 56,224 (Aggravated Robbery).
 - b. *State of Texas v. Edward A. Abel*, Tarrant Co. Dist. Ct., Case No. 0272474 (Aggravated Robbery with a Deadly Weapon).
25. Each felony conviction is a separate and sufficient cause for refusal pursuant to § 375.141.1(6).
26. The Director has considered Abel's history and all of the circumstances surrounding Abel's Application. Granting Abel an insurance producer license would not be in the

interest of the public. Accordingly, the Director exercises his discretion and refuses to issue an insurance producer license to Abel.

27. This order is in the public interest.

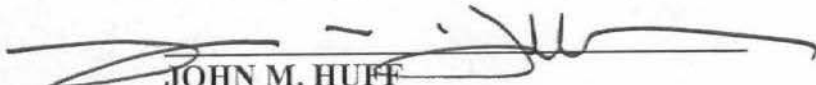
ORDER

IT IS THEREFORE ORDERED that the insurance producer license application of Edward Alan Abel is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 3RD DAY OF APRIL, 2014.




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 4th day of April, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Edward Alan Abel
5140 Urbanview
Sansom Park, Texas 76114

No. 1Z0R15W84299677143

Edward Alan Abel
5401 Urbanview
Sansom Park, Texas 76114

No. 1Z0R15W84295642357

Edward Alan Abel
Fort Worth, Texas 76116

No. 1Z0R15W84297593960



Kathryn Latimer
Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: Kathryn.latimer@insurance.mo.gov