



DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:)
)
DALE THOMAS WHITMORE SR.,) Case No. 2004230355C
)
Applicant.)

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance, takes up the above matter for consideration and disposition. After reviewing the Petition, the Investigative Report, and the entirety of the Petition file, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Dale Thomas Whitmore Sr. ("Whitmore") is a Missouri resident with a business and mailing address of 80 Fountain View Terrace, Apartment 15, Lake Saint Louis, MO 63367.
2. Whitmore is licensed as a resident insurance producer. His license expires May 3, 2020.
3. On April 13, 2020, the Department of Commerce and Insurance ("Department") received Whitmore's application to renew his resident insurance producer license ("2020 Application"), along with attachments.
4. Background Question No. 1B of the 2020 Application asked the following question:

Have you been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department? You may exclude juvenile

adjudications (offenses where you were adjudicated delinquent in a juvenile court).

5. Whitmore answered “Yes” to Background Question No. 1B and submitted documents regarding the following felony conviction:
 - a. On March 16, 2018, Whitmore pleaded guilty to the Class E Felony of Unlawful Use of a Weapon in violation of § 571.030, RSMo.¹ *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.). According to the Information, Whitmore discharged a semi-automatic pistol on or about May 7, 2017, while intoxicated. In written statements submitted to the Department in conjunction with his 2020 Application, Whitmore explains that, in addition to being intoxicated when he discharged his pistol, he was riding as a passenger in the back seat of a vehicle. Because of the guilty plea, the prosecutor entered a nolle prosequi on the other pending charge, for the Class B Felony of Unlawful Use of a Weapon in violation of § 571.030 (for discharge of a firearm from a vehicle). The court sentenced Whitmore to four years’ imprisonment, but recommended placement into the Department of Corrections’ 120-day Institutional Treatment Program. Whitmore completed that program, and on June 19, 2018, the court suspended execution of Whitmore’s sentence and ordered him to complete five years’ supervised probation. Whitmore’s earliest discharge date, according to his Probation and Parole Officer, is February 3, 2021.
6. An investigation conducted by the Consumer Affairs Division (“Division”) revealed that Whitmore was licensed as a resident insurance producer when he committed the felony in *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.), and he has remained licensed as a resident insurance producer since that time.
7. Whitmore did not report to the Director of the Department the criminal prosecution for the felonies in *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.), until he submitted his 2020 Application to the Department on April 13, 2020.
8. The investigation conducted by the Division also revealed that Whitmore was asked the following question about a current felony charge on the application he filed to renew his resident insurance producer license on March 12, 2018 (“2018 Application”):

¹ This and all other criminal statutory citations are to that version of the Revised Statutes of Missouri in effect at the time of the commission of the crime.

Have you been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).

9. Whitmore answered “No” to this question despite being at that time charged with the two felonies in *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.), one of which he would plead guilty to four days later.
10. It is inferable, and hereby found as fact, that Whitmore failed to disclose on his 2018 Application his then-pending felony charges for Unlawful Use of a Weapon in order to misrepresent to the Director that he did not have a criminal history in the hopes that the Director would look more favorably on his 2018 Application and issue a resident insurance producer license to him.

CONCLUSIONS OF LAW

11. Section 375.141, RSMo (2016),² states, 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:

- (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;

- (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

- (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud; [or]

* * *

- (6) Having been convicted of a felony or crime involving moral turpitude[.]

* * *

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

² All civil statutory references are to the Revised Statutes of Missouri (2016) unless otherwise indicated.

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.

12. The Director may refuse to renew Whitmore's resident insurance producer license under § 375.141.1(1) because Whitmore intentionally provided materially incorrect, misleading, incomplete or untrue information on the 2018 application by stating on his 2018 Application that he was not charged with a felony, despite being at that time charged with two felony counts of Unlawful Use of a Weapon in *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.).
13. The Director may refuse to renew Whitmore's resident insurance producer license under § 375.141.1(2) because Whitmore violated an insurance law. Specifically, Whitmore violated § 375.141.7 by not reporting to the Director the criminal prosecution for the felonies in *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.), within 30 days of the initial pretrial hearing date.
14. The Director may refuse to renew Whitmore's resident insurance producer license under § 375.141.1(3) because Whitmore obtained a license through material misrepresentation or fraud by stating on his 2018 Application that he was not charged with a felony, despite being at that time charged with two felony counts of Unlawful Use of a Weapon in *State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.).
15. The Director may refuse to renew Whitmore's resident insurance producer license under § 375.141.1(6) because Whitmore has been convicted of the Class E Felony of Unlawful Use of a Weapon. *See State v. Dale Thomas Whitmore Sr.*, Case No. 1711-CR01656-01 (St. Charles Cnty. Cir. Ct.).
16. The above-described instances are each separate and sufficient grounds upon which the Director may refuse to renew Whitmore's resident insurance producer license.
17. The Director has considered Whitmore's history and all of the circumstances surrounding Whitmore's application, and exercises her discretion to refuse to renew Whitmore's license.
18. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license Application of Dale Thomas Whitmore Sr. is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF April, 2020.



Chlora Lindley-Myers
CHLORA LINDLEY-MYERS
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 30th day of April, 2020, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Dale Thomas Whitmore Sr.
80 Fountain View Terrace,
Apartment 15
Lake Saint Louis, MO 63367

Tracking No. 1Z0R15W84297648740



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