



FINAL ORDER
EFFECTIVE
01-22-2018

State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:)

SEAN STEWART,

Applicant.

)
) **Case No. 170503277C**
)
)

ORDER REFUSING TO RENEW NON-RESIDENT INSURANCE PRODUCER LICENSE

On December 7, 2017, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue a non-resident insurance producer license to Sean Stewart. 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 order:

FINDINGS OF FACT

1. Sean Stewart ("Stewart") is a Florida resident with a business, residential, and mailing address of record of 1506 Hardwicke Street Northwest, Palm Bay, Florida 32907.
2. On August 25, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Stewart's electronic application for an individual insurance producer license ("2014 Application").
3. Background Question No. 1B of the 2014 Application asked the following, in relevant part:

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?
4. Stewart answered "No" in response to Background Question No. 1B on his 2014 Application.
5. The "Attestation" section of the 2014 Application stated, in relevant part:

1. I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
6. Stewart accepted the "Attestation" section of his 2014 Application.

7. Relying on Stewart's response to Background Question No. 1B and his attestation that his 2014 Application was true and complete, the Department issued Stewart a non-resident insurance producer license (License No. 8326545) on August 25, 2014, which expired on August 24, 2016.
8. On October 13, 2016, the Department received Stewart's application for renewal of his non-resident insurance producer license ("2016 Application").
9. Background Question No. 1B of the 2016 Application asked the following, in relevant part:

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).
10. Stewart answered "Yes" in response to Background Question No. 1B of his 2016 Application.
11. Along with his 2016 Application, Stewart submitted court documents disclosing the following relevant criminal history:
 - a. On July 19, 2004, Stewart was convicted of Eluding Police, a crime in the second degree in violation of N.J. REV. STAT. § 2C:29-2b.¹ The court ordered Stewart complete two years' probation. On April 13, 2007, Stewart's probation was "terminated without improvement." *State of New Jersey v. Sean O. Stewart*, Super. Ct. Essex Co., SBI No. 761700C, Docket No. IN 03-12-3744-I.
12. Stewart also attached a written statement explaining the above disclosures and his response to Background Question No. 1B. Stewart's letter states verbatim, in part:

I am writing about the incident that took place in July of 2003. At the time I was on my way to work and the police started to follow me. Also at the same time my insurance was not in effect.

I was scared and panicked at the time and instead of stopping I proceeded to keep driving. I was afraid that if my vehicle was taken I would not be able to commute to work and support my family.

Ever since the incident took place I have completed my community service and probation and has not had any other incident with the police or any other law enforcement agencies.
13. Stewart's statement does not explain why he failed to disclose his felony conviction on his 2014 Application.
14. On October 26, 2016, Special Investigator Karen Crutchfield with the Department's Consumer Affairs Division ("Division") sent an inquiry letter by first class mail to Stewart at

¹ All references to New Jersey criminal statutes are to the version under which the court rendered its judgment.

his address of record. The inquiry letter requested further details about his criminal history and certified copies of documents relating to matters he disclosed. Special Investigator Crutchfield further asked why Stewart failed to report his criminal history on his 2014 Application. The inquiry letter cited 20 CSR 100-4.100, notified Stewart that his response was due within twenty days, and warned that failure to respond could be a violation of the law and grounds for discipline of his license.

15. The United States Postal Service did not return the Division's October 26, 2016 inquiry letter as undeliverable, and therefore Stewart is presumed to have received it.
16. Stewart did not respond to the Division's October 26, 2016 inquiry letter within 20 days, nor did he demonstrate a reasonable justification for the delay.
17. On November 22, 2016, Special Investigator Crutchfield sent a second inquiry letter by first class and certified mail to Stewart at his address of record. The inquiry letter was marked "second notice" and requested the same information and documents requested by the first inquiry letter. The inquiry letter again cited 20 CSR 100-4.100, notified Stewart that his response was due within twenty days, and warned that failure to respond could be a violation of the law and grounds for discipline of his license.
18. The United States Postal Service did not return the Division's November 22, 2016 inquiry letter sent by first-class mail as undeliverable, and therefore Stewart is presumed to have received it.
19. The United States Postal Service Certified Mail receipt indicates that the November 22, 2016 inquiry letter sent by certified mail was delivered to Stewart's address of record on November, 26, 2016.
20. Stewart did not respond to the Division's November 22, 2016 inquiry letter within 20 days, nor did he demonstrate a reasonable justification for the delay.
21. On December 16, 2016, Special Investigator Crutchfield sent a third inquiry letter by first class and certified mail to Stewart at his address of record. The inquiry letter was marked "third notice" and requested the same information and documents requested by the first and second inquiry letters. The inquiry letter again cited 20 CSR 100-4.100, notified Stewart that his response was due within twenty days, and warned that failure to respond could be a violation of the law and grounds for discipline of his license.
22. The United States Postal Service did not return the Division's December 16, 2016 inquiry letter sent by first-class mail as undeliverable, and therefore Stewart is presumed to have received it.
23. The United States Postal Service Certified Mail receipt indicates that the December 16, 2016 inquiry letter sent by certified mail was delivered to Stewart's address of record on December 21, 2016.
24. On January 11, 2017, Special Investigator Crutchfield was able to reach Stewart by telephone at the residential number listed on his 2016 Application. Stewart requested additional time to respond to the prior inquiry letters so that he could get documents notarized. Special

Investigator Crutchfield agreed to extend the period for Stewart to respond by one week. On the same day, special Investigator Crutchfield sent Stewart an email confirming the extension, to which Stewart responded "I plan on sending the documents in the next week."

25. Stewart provided no further response or communication with the Division after his January 11, 2017 conversation and email exchange with Special Investigator Crutchfield.
26. Stewart did not respond to the Division's December 16, 2016 inquiry letter within one week of the January 11, 2017 extension. Further, Stewart did not demonstrate a reasonable justification for the delay.
27. On February 1, 2017, Special Investigator Crutchfield sent a fourth and final inquiry letter by first class mail to Stewart at his address of record. The inquiry letter was marked "fourth notice" and requested the same information and documents requested by the first three inquiry letters. The inquiry letter again cited 20 CSR 100-4.100, notified Stewart that his response was due within twenty days, and warned that failure to respond could be a violation of the law and grounds for discipline of his license.
28. The United States Postal Service did not return the Division's February 1, 2017 inquiry letter sent by first-class mail as undeliverable, and therefore Stewart is presumed to have received it.
29. Stewart did not respond to the Division's February 1, 2017 inquiry letter within 20 days, nor did he demonstrate a reasonable justification for the delay.
30. It is inferable, and hereby found as fact, that Stewart failed to disclose his conviction for Eluding Police in response to Background Question No. 2B of his 2014 Application in order to misrepresent to the Director that he had never been convicted of a felony and thereby improve the chances that the Director would approve his application for a non-resident insurance producer license.

CONCLUSIONS OF LAW

31. Section 375.141, RSMo (Supp. 2013)² 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:
 - (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]

* * *

² All civil statutory references are to the Revised Statutes of Missouri (2000), as updated by the 2013 Supplement.

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

32. 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.

33. "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).

34. Section 2C:43-6, N.J. Rev. Stat. (2004) provides:

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

* * *

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years[.]

35. Section 556.061, RSMo defines "felony" as including "...an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one year[.]"
36. The Director may refuse to renew Stewart's non-resident insurance producer license pursuant to § 375.141.1(1) because Stewart intentionally provided materially incorrect, misleading, incomplete or untrue information on his 2014 Application when he failed to disclose that he had been convicted of a felony. *State of New Jersey v. Sean O. Stewart*, SBI No. 761700C, Docket No. IN 03-12-3744-I.
37. The Director may refuse to renew Stewart's non-resident insurance producer license pursuant to § 375.141.1(2) because Stewart failed to respond to the Division's inquiry letters and failed to provide reasonable justifications for the delays, thereby violating 20 CSR 100-4.100(2)(A), a regulation of the Director.
38. Each instance in which Stewart violated 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
39. The Director may refuse to renew Stewart's non-resident insurance producer license pursuant to § 375.141.1(3) because Stewart obtained a license through material misrepresentation or fraud when he obtained a license after misrepresenting to the Director that he had never been convicted of a felony on his 2014 Application.

40. The Director may refuse to renew Stewart's non-resident insurance producer license pursuant to § 375.141.1(6) because Stewart has been convicted of a felony -- specifically, Eluding Police, a crime in the second degree punishable for a term of years between five years and 10 years in violation of N.J. Rev. Stat. § 2C:29-2b. *State of New Jersey v. Sean O. Stewart*, SBI No. 761700C, Docket No. IN 03-12-3744-I.
41. Director has considered Stewart's history and all of the circumstances surrounding his 2016 Application and exercises her discretion to refuse to renew Stewart's non-resident insurance producer license.
42. This order is in the public interest.

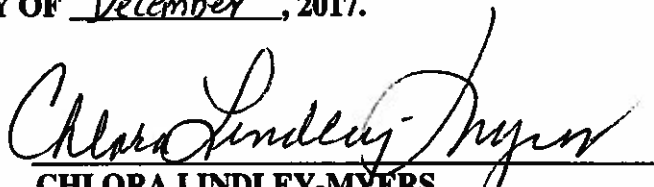
ORDER

IT IS THEREFORE ORDERED that Sean Stewart's non-resident insurance producer application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 12th DAY OF December, 2017.




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 13day of December, 2017 a copy of the foregoing Order and Notice was served upon the Applicant in this matter UPS, signature required, to the following address:

Sean Stewart
1506 Hardwicke Street Northwest
Palm Bay, Florida 32907

Tracking No. 1Z0R15W84290099187


Kathryn Latimer
Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.6515
Facsimile: 573.526.5492