



DEPARTMENT OF COMMERCE AND INSURANCE

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

IN RE:)	
)	
KYLE R. MCCLAIN,)	Case No. 2006170486C
)	
Applicant.)	

ORDER REFUSING TO RENEW A RESIDENT INSURANCE PRODUCER LICENSE

On June 19, 2020, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing to renew the resident insurance producer license of Kyle R. McClain. 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. Kyle R. McClain (“McClain”), is a resident of the state of Missouri with a reported residential, business and mailing address of 21 Urbandale, Moberly, Missouri 65270.
2. On June 9, 2020, McClain submitted an electronic Application to renew a resident insurance producer license (“Application”) to the Department.
3. Background Question No. 1B. on his Application states:

Have you ever 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)

4. McClain answered “No” to Background Question No. 1B. on his Application.

5. The Attestation Section of the Application provides in pertinent part:

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 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. McClain answered “Yes” to the Attestation section on his Application.

7. Because of complaints it had received in August and September, 2018, regarding McClain and the sale of insurance products, the Department’s Division conducted an investigation into McClain’s Application. Jodi Lehman (“Lehman”), the Special Investigator in charge of the investigation, discovered that McClain had been charged with four felonies.

8. Lehman found that on or about March 5, 2019, the Missouri Attorney General, through his Assistants, filed a Felony Complaint in the Boone County Associate Circuit Court charging McClain with four felonies. *State of Missouri v. Kyle R. McClain*, Boone Co. Cir. Ct., Case No. 19BA-CR01011.

9. The Attorney General, through his Assistants, charged McClain with four Class E Felonies for Unlawful Merchandising Practices, in violation of § 407.020, RSMo on four separate occasions, each occasion constituting a separate Class E Felony. *Id.*

10. The Boone County Associate Circuit Court bound the case over to the Boone County Circuit Court and on June 14, 2019, the arraignment in the case was held. *State v. Kyle R. McClain*, Boone Co. Cir. Ct., Case No. 19BA-CR01011-01.

11. On June 19, 2019, the Attorney General, acting through his Assistants, filed the Information in the criminal case. *Id.*

12. The case is still pending in the Boone County Circuit Court. *Id.*

13. As noted above, McClain did not disclose on his Application that he had been charged with a felony, and Lehman confirmed that he had not reported the felony

charges to the Department by using the NIPR Warehouse database, or in any other manner, prior to submitting his Application.

14. The NIPR Warehouse is a database that, among other things, allows licensed insurance producers to electronically report, at any time, any changes to their criminal history, or disciplinary actions taken by another jurisdiction.
15. McClain signed the Attestation Section of the Application certifying that the information he provided in his Application was accurate. However, he failed to disclose four felony charges despite the language of Background Question No. 1B asking if he was “currently” charged with a felony.
16. It is reasonable to infer, and I hereby find as fact, that McClain did not disclose the felony charges in order to increase the chances that the Department would renew his license. *Id.*

CONCLUSIONS OF LAW

17. Section 375.141, RSMo 2016,¹ provides, in pertinent 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[.]

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.

¹ All further statutory references are to RSMo 2016 unless otherwise indicated.

18. The Director may refuse to renew a resident insurance producer license for McClain pursuant to § 375.141.1(1) because McClain intentionally provided materially incorrect, misleading, incomplete or untrue information in his license application. McClain failed to disclose four felony charges in *State of Missouri v. Kyle R. McClain*, Boone Co. Cir. Ct., Case No. 19BA-CR01011-01.
19. The Director may refuse to renew a resident insurance producer license for McClain pursuant to § 375.141.1(2) because McClain violated the insurance laws of Missouri, specifically § 375.141.7, by failing to report the four felony charges to the Department and further failing to provide a copy of the Information or any other relevant legal documents.
20. The Director may refuse to renew a resident insurance producer license for McClain pursuant to § 375.141.1(3) because McClain attempted to obtain a license through material misrepresentation or fraud by failing to disclose his four felony charges in his Application, to the Department or to the NIPR Warehouse.
21. The above-described instances are grounds upon which the Director may refuse to renew McClain's resident insurance producer license.
22. Accordingly, and for all of the reasons given in this Petition, the Director should consider McClain's history and all of the circumstances surrounding McClain's Application and exercise her discretion to refuse to renew McClain's resident insurance producer license.
23. This Order is in the public interest.

ORDER


IT IS THEREFORE ORDERED that the Application to renew the resident insurance producer license of **Kyle R. McClain** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th **DAY OF**

June

, 2020.


**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.

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2020, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Kyle R. McClain
21 Urbandale
Moberly, Missouri 65270

Tracking No. 1Z0R15W84291933844



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