



FINAL ORDER
EFFECTIVE
03-23-2018

State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
ANDRE LEWIS MCGOWAN,) **Case No. 171107437C**
)
Applicant.)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On November 27, 2017, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a nonresident insurance producer license to Andre Lewis McGowan. After reviewing the Petition, 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. Andre Lewis McGowan (“McGowan”) is a Texas resident with a residential address of 9560 Deering Drive, No. 46, Houston, Texas 77036-7931.
2. On or about September 15, 1992, McGowan pled guilty to Attempted Sexual Assault in violation of Texas law. The court deferred adjudication and ordered him to complete five years’ probation. *Texas v. Andre Lewis McGowan*, Harris Co. Dist. Ct., Case No. 641422 (“*McGowan I*”).
3. On or about October 20, 1992, McGowan pled guilty to, and was convicted of, Sexual Assault in the Second Degree in violation of Texas law. The court sentenced him to ten years’ incarceration, and also revoked his probation in *McGowan I* after finding that he had violated its conditions, thereby convicting him – and sentencing him to ten years’ incarceration also for the Attempted Sexual Assault. *Id.*; *Texas v. Andre Lewis McGowan*, Harris Co. Dist. Ct., Case No. 644949 (“*McGowan II*”).¹
4. On or about May 2, 2007, McGowan pled guilty to, and was convicted of, Failure to Register as Sex Offender, a state jail felony in violation of Texas law. The court sentenced him to one year of incarceration. *Texas v. Andre Lewis McGowan*, Harris Co. Dist. Ct., Case No. 1114683 (“*McGowan III*”).
5. On February 16, 2017, the Department of Insurance, Financial Institutions and

¹ The crimes involved different victims and occurred on different dates.

Professional Registration (“Department”) received McGowan’s electronic nonresident insurance producer license application (“Application”).

6. McGowan answered “Yes” to Background Question 1B of the Application, which asked 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?”
7. The Application further instructs:

If you answer yes ... you must attach to this application:

 - a) a written statement explaining the circumstances of each incident,
 - b) a copy of the charging document,
 - c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.
8. With his Application, McGowan provided court records and other documents detailing his prosecutions in *McGowan I*, *McGowan II*, and *McGowan III*. He did not provide any personal statement or explanation of the crimes.
9. As a condition of submission, McGowan accepted the Applicant’s Certification and Attestation section of his Application which stated, in relevant 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 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.
10. On February 28, 2017, Special Investigator Dennis Fitzpatrick of the Department’s Consumer Affairs Division (“Special Investigator Fitzpatrick” of the “Division”) sent McGowan an inquiry letter by first-class mail, postage prepaid, requesting a personal explanation of his crimes as instructed by the Application. The inquiry letter advised that McGowan’s response was due within twenty days and that “[f]ailure to respond could result in disciplinary action by this Department.”
11. The United States Postal Service did not return the Division’s February 28, 2017 inquiry letter as being undeliverable, or for any other reason; therefore, McGowan is presumed to have received it.
12. McGowan never responded to the Division’s February 28, 2017 inquiry letter.
13. On March 31, 2017, the Commissioner of the Indiana Department of Insurance issued an administrative order denying McGowan’s application for a nonresident Indiana insurance producer license. *In re Ins. Producer License Application of Andre McGowan*, Ind. Comm’r of Ins., Cause No. 16070-AD17-0322-029.

14. On April 6, 2017, Special Investigator Fitzpatrick sent a second inquiry letter to McGowan by the same method and requesting the same personal explanation as in the first inquiry letter, again warning McGowan that his response was due within twenty days.
15. The United States Postal Service did not return the Division's April 6, 2017 inquiry letter as being undeliverable, or for any other reason; therefore, McGowan is presumed to have received it.
16. McGowan never responded to the Division's April 6, 2017 inquiry letter.
17. On June 7, 2017, Special Investigator Fitzpatrick sent a third inquiry letter to McGowan by the same method and requesting the same personal explanation as in the prior inquiry letters, again warning McGowan that his response was due within twenty days.
18. The United States Postal Service did not return the Division's June 7, 2017 inquiry letter as being undeliverable, or for any other reason; therefore, McGowan is presumed to have received it.
19. McGowan never responded to the Division's June 7, 2017 inquiry letter.
20. On July 12, 2017, Special Investigator Fitzpatrick sent a fourth inquiry letter to McGowan by the same method and requesting the same personal explanation as in the prior inquiry letters, again warning McGowan that his response was due within twenty days.
21. The United States Postal Service did not return the Division's July 12, 2017 inquiry letter as being undeliverable, or for any other reason; therefore, McGowan is presumed to have received it.²
22. McGowan never responded to the Division's July 12, 2017 inquiry letter.
23. McGowan has never demonstrated any reasonable justification for his nonresponsiveness to the Division's inquiry letters.

CONCLUSIONS OF LAW

24. Section 375.141.1, RSMo³ provides, in relevant part:

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 Special Investigator Fitzpatrick sent the first two inquiry letters to the business/ mailing address that McGowan provided on his Application, and the later inquiry letters to his residential address (also from the Application).

³ All statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes.

* * *

- (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; [or]

* * *

- (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

25. Title 20 CSR 100-4.100(2)(A) is a regulation of the Director and 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.

26. "Moral turpitude has been defined as an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything done contrary to justice, honesty, modesty, and good morals." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985) (internal citations and quotations omitted).
27. "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. E.D. 2000) (internal citation omitted).
28. The Director may refuse to issue McGowan a nonresident insurance producer license pursuant to § 375.141.1(2) because on four occasions he violated a regulation of the Director, specifically 20 CSR 100-4.100, by failing to respond to an inquiry letter from the Division without any reasonable justification.
29. Each violation of 20 CSR 100-4.100 is a separate and sufficient ground for refusal pursuant to § 375.141.1(2).

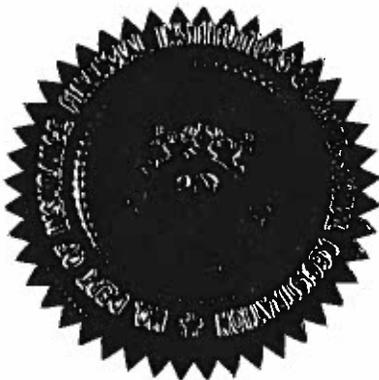
30. The Director may refuse to issue McGowan a nonresident insurance producer license pursuant to § 375.141.1(6) because he has been convicted of felonies and crimes involving moral turpitude, specifically:
- a. Attempted Sexual Assault, *McGowan I*;
 - b. Sexual Assault in the Second Degree, *McGowan II*; and
 - c. Failure to Register as Sex Offender, *McGowan III*.
31. Each of McGowan's convictions for a felony or crime involving moral turpitude is a separate and sufficient ground for refusal pursuant to § 375.141.1(6).
32. The Director may refuse to issue McGowan a nonresident insurance producer license pursuant to § 375.141.1(9) because he was denied an Indiana nonresident insurance producer license. *See In re Ins. Producer License Application of Andre McGowan*, Ind. Comm'r of Ins., Cause No. 16070-AD17-0322-029.
33. The Director has considered McGowan's history and all of the circumstances surrounding McGowan's Application. Issuing a nonresident insurance producer license to McGowan would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue a nonresident insurance producer license to McGowan.
34. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the nonresident insurance producer license application of **Andre Lewis McGowan** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 09th DAY OF January, 2018.



Chlora Lindley Myers
CHLORA LINDLEY-MYERS, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

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.

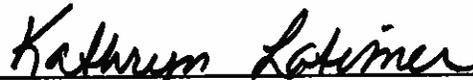
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Andre Lewis McGowan
9560 Deering Drive, No. 46
Houston, Texas 77036-7931

No. 1Z0R15W84298272288



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
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, at the following address:

Andre Lewis McGowan
9560 Deering Drive, No. 46
Houston, Texas 77036-7931

Certified No. 7016 0340 0001 1319 8514



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Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of February, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Andre Lewis McGowan
9560 Deering Drive, No. 46
Houston, Texas 77036-7931



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