



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

In the Matter of:

Allen Jeffrey Vise,
Applicant.

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Case No. 12-0810491C

REFUSAL TO ISSUE PUBLIC ADJUSTER LICENSE

On November 27, 2012, Carolyn H. Kerr, Legal Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a public adjuster license to Allen Jeffrey Vise. 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. Allen Jeffrey Vise ("Vise") is an individual residing in Texas.
2. On or about May 3, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Vise's Missouri Uniform Application for Public Adjuster, Public Adjuster Solicitor, or Surplus Lines ("Application") seeking a public adjuster license.
3. Vise listed his residence address on the Application as 1417 Nantucket, Houston, TX 77057 and his mailing address as 50 Briar Hollow Lane, Suite 230W, Houston, TX 77027.
4. Part V of the Application, titled Applicant Signature, states as follows:

This applicant first being duly sworn upon his/her oath, states that the statements contained in the above and foregoing application are true to the best of his/her knowledge and belief.
5. Vise signed his name as the Applicant in Part V of the Application.
6. In the section of the Application headed "Background Information," Background Question B asks: "Has any disciplinary action, including but not limited to, refusal, suspension, revocation, ever been taken by any regulatory agency in any state or province of Canada against you or any business with which you have been directly connected?"

7. Vise answered "No" to Background Question B.

8. On December 3, 1992, Vise entered into a Consent Order with the Treasurer of the State of Florida, Department of Insurance ("Florida DOI") whereby the Florida DOI issued Vise a license "as an emergency public adjuster" and Vise agreed to reimburse the Florida DOI \$1,000 "for the costs associated with the [DOI's] investigation." This Consent Order was based on a Settlement Stipulation for Consent Order executed by Vise on November 5, 1992, wherein the Florida DOI had "obtained information suggesting that [Vise] unlawfully engaged in the business as a public adjuster without licensure." *In the Matter of Jeffrey A. Vise*, Case No. 92-L-573RES.

9. On December 9, 1997, the Florida DOI filed a Notice of Intent to Issue a Cease and Desist Order and Assess Penalties alleging that Vise "transacted insurance as a public adjuster in [Florida] ... without a license," in violation of §§ 624.11, 626.112, 626.9521(1), and 626.9541(1)(k)1 Florida Statutes and Rule 4-220.051(3), Florida Administrative Code. *In the Matter of Jeffrey A. Vise*, Case No. 16736-96-A.

10. On April 17, 1998, the Florida DOI issued a Cease and Desist Order and Assess Penalties against Vise finding that Vise "misrepresented himself as a public adjuster and engaged in the business of public adjusting without a license" and "failed to pay administrative costs of \$1,000.00" in Case No. 92-L-573RES. The Florida DOI also assessed a monetary penalty of \$2,500.00 against Vise. *In the Matter of Jeffrey A. Vise*, Case No. 16736-96-A.

11. Vise failed to disclose both of the Florida DOI administrative actions taken against him in *In the Matter of Jeffrey A. Vise*, Case No. 92-L-573RES and *In the Matter of Jeffrey A. Vise*, Case No. 16736-96-A when he submitted his Application.

12. The Application's Background Question C asks: "Have you ever been convicted of or pled nolo contendere (no contest) to any misdemeanor or felony, or currently have pending misdemeanor or felony charges filed against you? (Misdemeanor does not mean minor traffic violations.)"

13. Vise answered "No" to Background Question C.

14. On March 23, 1998, Vise entered a Nolo Contendere plea to the Class B Misdemeanor of DWI. The court entered judgment the same day and sentenced Vise to 180 days in the Harris County, Texas jail. It also required him to pay a \$100 fine and court costs. The court suspended Vise's sentence and placed him on community supervision for one year. *State of Texas v. Allen Jeffrey Vise*, Harris Co. Crim. Ct., Case No. 975099801010.

15. On March 9 1993, Vise pled guilty to the Class A Misdemeanor of Unlawful Carrying of a Weapon. Vise paid a fine of \$1,700.00. *State of Texas v. Jeffrey A. Vise*, Harris Co. Crim. Ct., Case No. 924161601010.

16. On March 17, 1986, Vise pled guilty to Misdemeanor Shoplifting. The court ordered Vise to pay a fine and "attend a shoplifting school." *City of Reno, v. Jeffrey Vise*, 2nd Judicial Dist., Washoe County, Nevada, Case No. C85-2123

17. On March 9, 1977, Vise pled guilty to two counts of Attempted Commercial Burglary, a felony under § 40A-16-3B, NMSA 1973, as amended, in magistrate court. As a result, the court deferred Vise's sentence and placed him on six months of supervised probation. *State v. Jeff Vise*, 2nd Judicial Dist., New Mexico, Case No. 27764.

18. Vise failed to disclose the above-referenced criminal convictions or guilty pleas when he submitted his Application to the Department.

19. Vise admitted in a telephone conversation with Julie Hesser ("Hesser"), Special Investigator with the Consumer Affairs Division, that he did not disclose his criminal background and the regulatory actions on his Application.

20. Vise further admitted to Hesser that he removed pages from the certified documents obtained from the Florida DOI to avoid a lengthy licensing process.

21. Also in that conversation, Vise stated that he would lose the business he had lined up in Missouri if he had disclosed the information regarding his criminal and administrative background at the time of his Application.

22. In response to Hesser's request for certified copies of the documents relating to *In the Matter of Jeffrey A. Vise*, Case No. 16736-96-A, Vise only provided her with seven of the 38 total pages of documents available from the Florida DOI.

23. Even after a second written request from the Division, Vise still did not provide all available documentation relating to his criminal history and administrative actions taken against him. Hesser finally obtained all of the documents and information regarding both of the Florida administrative actions directly from the Florida DOI.

CONCLUSIONS OF LAW

24. Section 325.030, RSMo (Supp. 2011),¹ provides, in relevant part:

1. The director shall issue the proper license when the requirements of sections 325.010 to 325.055 have been met, and a person receiving the license shall thereafter be known and styled a "licensed public adjuster", or "licensed public adjuster solicitor", as the case may be.

25. Section 325.035, RSMo provides, in relevant part:

1. Whenever the director shall be satisfied that an applicant for a license does not have the necessary qualifications to engage in the public adjustment business, or when he shall be satisfied that a holder of such license has engaged in false, fraudulent or misleading business practices, the director may refuse to issue the license or may revoke or suspend the license. Such refusal, revocation or suspension shall be accomplished

¹ All statutory references are to the 2011 Supplement to the Revised Statutes of Missouri, unless otherwise noted.

pursuant to the provisions of chapter 621 and shall be based on one or more of the following grounds:

* * *

(2) Any ground under subdivisions (2) to (12) of subsection 1 of section 375.141.

26. Section 375.141, provides, 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:

* * *

(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;

* * *

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

27. 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).

CAUSE FOR ORDER REFUSING TO ISSUE
PUBLIC ADJUSTER LICENSE

28. The Director may refuse to issue a public adjuster license to Vise pursuant to §325.035.1(2) because the Florida DOI entered into a Consent Order with Vise on December 3, 1992 after finding that Vise “engaged in business as a public adjuster without licensure,” thereby violating Florida’s insurance laws, namely, §§624.11, 626.112, 626.9521(1), and 626.9541(1)(k)1 Florida Statutes and Rule 4-220.051(3), Florida Administrative Code.

29. The Director may refuse to issue a public adjuster license to Vise pursuant to §325.035.1(2) because the Florida DOI issued a Cease and Desist Order and Assess Penalties on April 17, 1998 against Vise finding that Vise “misrepresented himself as a public adjuster and engaged in the business of public adjusting without a license” and “failed to pay administrative costs of \$1,000.00,” which are each grounds for refusal pursuant to §375.141.1(2).

30. The Director may refuse to issue a public adjuster license to Vise pursuant to §325.035.1(2). Vise attempted to obtain a public adjuster license through material misrepresentation or fraud by failing to fully disclose his criminal history when he submitted his May 3, 2012 Application to the Department and signed the Application attesting that the information provided in the Application was "true to the best of his knowledge and belief." Only after repeated attempts by the Division's Investigator did Vise give any information to the Division. When he did provide documentation to the Investigator, Vise still only provided a portion of the requested documents. This failure to disclose his criminal history at the time of his application is a ground for refusal pursuant to §375.141.1(3).

31. The Director may refuse to issue a public adjuster license to Vise pursuant to §325.035.1(2). Vise attempted to obtain a public adjuster license through material misrepresentation or fraud by failing to fully disclose the two separate administrative actions taken against him by the Florida DOI in 1992 and 1998 when he submitted his May 3, 2012 Application to the Department and signed the Application attesting that the information provided in the Application was "true to the best of his knowledge and belief." Only after repeated attempts by the Division's Investigator did Vise give any information to the Division. When he did provide documentation to the Investigator, Vise still only provided a portion of the requested documents. This failure to disclose his administrative history at the time of his application is a ground for refusal pursuant to §375.141.1(3).

32. The Director may refuse to issue a public adjuster license to Vise pursuant to §325.035.1(2). Vise attempted to obtain a public adjuster license through material misrepresentation or fraud by intentionally failing to fully disclose his criminal history and the two separate administrative actions taken against him by the Florida DOI when he submitted his May 3, 2012 Application to the Department. Vise admitted to the Investigator that he did not disclose his criminal background and the regulator action and that he removed pages from the certified documents from Florida to avoid a lengthy licensing process, because he had business "lined up" in Missouri that he did not want to lose if his license was not immediately granted. This intentional and purposeful refusal to disclose his criminal and administrative history to the Division is a ground for refusal pursuant to §375.141.1(3).

33. The Director may refuse to issue a public adjuster license to Vise pursuant to §325.035.1(2) because Vise was convicted of a crime of moral turpitude, namely shoplifting, which is a ground for refusal pursuant to §375.141.1(6). *Moore v. State Bd. of Nursing*, Mo. Adm. Hrg. Comm'n, Case No. 96-002027 BN (August 26, 1997).

34. The Director has considered Vise's history and all of the circumstances surrounding his Application. As such, granting Vise a public adjuster solicitor license would not be in the interest of the public. For all of the reasons stated in this Order, the Director exercises his discretion by refusing to issue Vise a public adjuster license.

35. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the a public adjuster license of ALLEN JEFFREY VISE is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 5TH DAY OF DECEMBER, 2012.



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

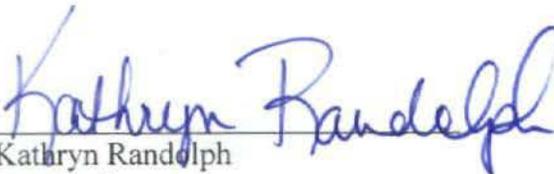
I hereby certify that on this 6th day of December, 2012, a copy of the foregoing notice and order was served upon Jeffrey Allen Vise in this matter by certified mail at the following address:

Allen Jeffrey Vise
1417 Nantucket
Houston, TX 77057

Allen Jeffrey Vise
50 Briar Hollow Lane
Suite 230W
Houston, TX 77027

Certified Mail # 7009 3410 0001 9255 6181

7009 3410 0001 9255 6198



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