



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:

Cortez Brown,

Applicant.

Case No. 12-0709454C

Serve at:

8724 Lucas and Hunt
St. Louis, Missouri 63136

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On September 10, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Cortez Brown a resident insurance producer license. 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. Cortez Brown ("Brown"), a.k.a. "Tez," is an individual residing in Missouri, whose residential and mailing address of record is 8724 Lucas and Hunt, St. Louis, Missouri 63136.
2. On or about April 2, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic resident insurance producer license application ("Application") from Brown.
3. In the section of the Application headed "Background Questions," Background Question # 1 asks, in relevant part: offense

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

Note: "Crime" includes a misdemeanor, a felony or a military offense.

You may exclude misdemeanor traffic citations and misdemeanor convictions or pending misdemeanor charges involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a

suspended or revoked license and juvenile offenses.

"Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

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.

4. Brown answered "Yes" to Background Question # 1.
5. With his Application, Brown disclosed a 2007 felony conviction for Conspiracy to Distribute and Possess With Intent to Distribute Cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 846, for which he was sentenced to 70 months in the custody of the United States Bureau of Prisons and four years supervised release. *United States of America v. Cortez Brown a/k/a "Tez"*, Case No. 4:06CR563CDP, Judgment in a Criminal Case filed April 24, 2007.
6. Brown failed to disclose six additional convictions:
 - a. On or about January 6, 1995, a jury found Brown guilty of Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony, and Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor, in violation of § 195.202, RSMo (Supp. 1989). The court sentenced Brown to serve four years in the custody of the Missouri Department of Corrections on count one and a one year concurrent sentence on count two. *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22931-03200-01.
 - b. On or about February 3, 1995, Brown pleaded guilty to Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony, in violation of § 195.202, RSMo (Supp. 1989). The court sentenced Brown to serve four years in the custody of the Missouri Department of Corrections to run concurrently with his sentence in Case No. 22931-03200-01. *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22941-01345-01.
 - c. On or about February 17, 2006, Brown pleaded guilty to four counts of Nonsupport In Each Of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is In Excess Of \$5000, all Class D felonies, in violation of § 568.040, RSMo (Supp. 1993). The court suspended the imposition of Brown's sentence on all four counts and placed Brown on five years' probation. On or about April 26, 2007, the court revoked Brown's probation and sentenced him to four concurrent four year sentences in the custody of the Missouri Department of Corrections. *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2103R-05766-01.

- d. On or about March 22, 2006, Brown pleaded guilty to Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor, in violation of § 195.202, RSMo (Supp. 1989). The court sentenced Brown to 60 days in the custody of a medium security institution. The court suspended the execution of Brown's sentence and placed Brown on one year supervised probation. *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22049-06904.
- e. On or about April 25, 2007, Brown pleaded guilty to Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor, in violation of § 195.202, RSMo (Supp. 1989). The court sentenced Brown to 60 days in the custody of the Department of Justice Services. *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2106R-01789.

7. Background Question # 7 of the Application asks:

Do you have a child support obligation in arrearage?

7A. By how many months are you in arrearage?

7B. Are you currently subject to and in compliance with any repayment agreement?

7C. Are you the subject of a child support related subpoena/warrant?

- 8. Brown answered "Yes" to Background Question # 7. Brown further indicated that he was two months in arrearage, but was in compliance with a repayment agreement and not the subject of a child support related subpoena/warrant.
- 9. As of June, 2012, Brown was \$27,322.48 in arrears on his child support obligations.

CONCLUSIONS OF LAW

10. Section 375.141, RSMo¹ 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;

* * *

(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;

¹ All statutory references are to the Revised Statutes of Missouri (Supp. 2011) unless otherwise noted.

* * *

(13) Failing to comply with an administrative or court order imposing a child support obligation[.]

11. 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. 1984).
12. Brown failed to report six felony convictions and three misdemeanor convictions, despite disclosing one felony conviction on his Application. Brown's failure to disclose his entire criminal history demonstrates his intent to mislead the Director regarding his criminal background. Therefore, Brown may be refused a resident insurance producer license pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete or untrue information on a license application. *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22931-03200-01 (one count each of Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony, and Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor); *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22941-01345-01 (Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony); *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2103R-05766-01 (four counts of Nonsupport In Each Of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is In Excess Of \$5000, all Class D felonies); *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22049-06904 (Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor); *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2106R-01789 (Possession Of Up To 35 Grams Marijuana (a Class A misdemeanor)).
13. Brown's failure to disclose his entire criminal history demonstrates his intent to obtain a license by withholding material information from the Director. Therefore, Brown may be refused a resident insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud. *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22931-03200-01 (one count each of Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony, and Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor); *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22941-01345-01 (Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony); *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2103R-05766-01 (four counts of Nonsupport In Each Of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is In Excess Of \$5000, all Class D felonies); *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22049-06904 (Possession Of Up To 35 Grams Marijuana, a Class A misdemeanor); *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2106R-01789 (Possession Of Up To 35 Grams Marijuana (a Class A misdemeanor)).
14. Brown's criminal history includes seven felonies, each of which are grounds to refuse Brown's resident insurance producer license pursuant to § 375.141.1(6). *United States of America v. Cortez Brown a/k/a "Tez"*, Case No. 4:06CR563CDP, Judgment in a Criminal

Case filed April 24, 2007 (Conspiracy to Distribute and Possess With Intent to Distribute Cocaine, a felony); *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22931-03200-01 (Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony); *State of Missouri v. Cortez Brown*, St. Louis City Cir. Ct., Case No. 22941-01345-01 (Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana, a Class C felony); *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2103R-05766-01 (four counts of Nonsupport In Each Of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is In Excess Of \$5000, all Class D felonies).

15. Brown has been convicted of: felony Conspiracy to Distribute and Possess With Intent to Distribute Cocaine; two felony counts of Possession Of Controlled Substance Except 35 Grams Or Less Of Marijuana; and four counts of Nonsupport In Each Of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is In Excess Of \$5000; all of which are crimes involving moral turpitude. Therefore, Brown's resident insurance producer license may be refused pursuant to § 375.141.1(6). See *Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 709 (Mo. App. E.D. 1989) ("Conviction for narcotics dealings involves a crime involving moral turpitude."); *In re Shunk*, 847 S.W.2d 789, 791 (Mo. banc 1993) ("[A] felony conviction for possession of narcotics is a crime of moral turpitude[.]"); *In re Warren*, 888 S.W.2d 334, 336 (Mo. banc 1994) (stating that the failure to discharge one's responsibility to provide for his children without good cause is an act of moral turpitude).
16. As of June, 2012, Brown is \$27,322.48 in arrears on his child support obligations and has been convicted four times for Nonsupport In Each Of Six Individual Months Within Any Twelve-Month Period, Amount Owed Is In Excess Of \$5000. Brown's excessive child support arrearage and Nonsupport convictions are grounds to refuse his resident insurance producer license pursuant to § 375.141.1(13) for failing to comply with an administrative or court order imposing a child support obligation. *State of Missouri v. Cortez Brown*, St. Louis Co. Cir. Ct., Case No. 2103R-05766-01.
17. Brown attempted to deceive the Director and obtain a license through misrepresentation by failing to disclose numerous convictions in his Application. He also has an extreme lack of respect for the law, as demonstrated by his seven felony convictions and seven crimes involving moral turpitude. Finally, Brown is \$27,322.48 behind in child support and has been convicted of Nonsupport four times. Granting Brown a resident insurance producer license would not be in the interest of the public.

18. The Director has considered Brown's history and all of the circumstances surrounding Brown's Application and for the reasons stated in this Order refuses Brown's resident insurance producer license.

19. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license of Cortez Brown, a.k.a. "Tez," is hereby REFUSED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 11th DAY OF SEPTEMBER, 2012.


JOHN M. HUFF
DIRECTOR



NOTICE

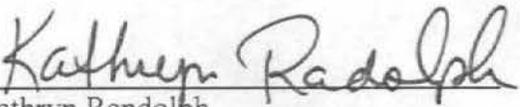
TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 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 12th day of September, 2012, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified/priority mail No. 7009 3410 0001 8931 3537.

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