



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
 MARK M. COOK,) Case No. 180912853C
)
 Applicant.)

ORDER REFUSING TO ISSUE
AN INSURANCE PRODUCER LICENSE

On January 4, 2019, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing Mark M. Cook’s insurance producer license. After reviewing the Petition, the Investigative Report, and other relevant documents, the Director issues the following findings of fact, conclusions of law, and order:

FACTUAL BACKGROUND

1. Mark M. Cook (“Cook”) is a Missouri resident with a residential address of 920 Westwold Ave., Ferguson, Missouri 63135.
2. On January 23, 2018, Cook submitted an electronic insurance producer application (“Application”).
3. Background Question No. 1A of the Application asked the following, in relevant part:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?
4. Cook answered “Yes” in response to Background Question No. 1A.
5. Cook disclosed that on Nov. 9, 2009, Cook was charged in the following municipal causes in the City of Park Hills, Missouri with the following tickets: #07003986, Property Damage, #070039865 False Information, #090413289 Stealing, and #080575807 Shoplifting. Cook received a thirty day suspended execution of sentence and was placed on two years’ supervised probation. Cook completed the probation on Nov. 9, 2011.

6. Cook did not disclose he had in fact had been convicted in two misdemeanor assault cases as follows:
 - a. *State v. Mark M. Cook*, Jefferson Co. Cir. Ct., No. 08JE-CR03688. On May 25, 2010, Cook pled guilty to the Class C Misdemeanor of Assault Third Degree in Violation of § 565.070¹. The court sentenced Cook to 15 days in jail with execution of sentence suspended, and two years' unsupervised probation, with the requirements that he have with no contact with A. S. *Id.*
 - b. *State v. Mark M. Cook*, St. Francois Co. Cir. Ct., No. 08D7-CR00355. On September 23, 2008, Cook pled guilty to the Class C Misdemeanor of Assault Third Degree in violation of § 565.070. The court sentenced Cook to five days in jail and a fine. *Id.*
7. The Division mailed and emailed an inquiry letter to Cook on February 7, 2018. In it, the Department asked for a statement explaining the circumstances surrounding each incident including the failure to disclose the misdemeanor assault convictions. The Division referenced 20 CSR 100-4.100(2)(A), indicating that failure to respond could result in a refusal of your resident producer license.
8. Cook failed to respond to the February 7, 2018 Department inquiry letter and stated no reasonable justification for delay.
9. On September 27, 2018 the Director of Insurance, Financial Institutions and Professional Registration issued a Subpoena and Subpoena Duces Tecum ("Subpoena") for Cook to appear before the Division on October 23, 2018 at 11:00 a.m., Harry S. Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri.
10. The Department mailed the Subpoena via U.S. first class mail and it was not returned as undeliverable. The Department also mailed the Subpoena via U.S. certified mail, but the Department never received signature of its recipient.
11. Cook failed to appear for the October 23, 2018 Subpoena conference and thereby failed to obey the Subpoena. Cook did not contact the Division for any reason for his absence.
12. The Division mailed an inquiry letter to Cook on October 23, 2018 and emailed it to Cook's email on record with the Division. In its letter, the Division stated that Cook's presence was required at the Division per the Subpoena and asked Cook to "[p]rovide an explanation as to why you failed to appear for the Subpoena conference today." The Division again referenced 20 CSR 100-4.100(2)(A), indicating that failure to

¹ This and all criminal statutory citations are to that version of RSMo in effect at the time of the crime.

respond could result in a refusal of your resident producer license.”

13. Cook failed to respond to the October 23, 2018 Department inquiry letter or state reasonable justification for delay.

CONCLUSIONS OF LAW

14. Section 375.141, RSMo 2016, 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;

* * *

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

15. 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.

16. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).
17. Cook’s resident individual insurance producer license application may be refused pursuant to § 375.141.1(1) because he intentionally provided materially incorrect,

misleading, incomplete or untrue information in his Application, in that he failed to disclose the following convictions: two convictions for Assault Third Degree pursuant to § 565.070. *State v. Mark M. Cook*, Jefferson Co. Cir. Ct., No. 08JE-CR03688 and *State v. Mark M. Cook*, St. Francois Co. Cir. Ct., No. 08D7-CR00355. These convictions pre-dated Cook's Application submission, yet he did not disclose or explain these crimes.

18. Each incorrect, misleading, incomplete or untrue information is a separate and sufficient cause for refusal pursuant to § 375.141.1.
19. Cook's resident individual insurance producer license application may be refused pursuant to § 375.141.1(2) because he violated an insurance regulation, in that he failed to adequately respond to two inquiry letters from the Division dated February 7, 2018 and October 23, 2018, and failed to demonstrate a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a department regulation.
20. Cook's resident individual insurance producer license application may also be refused pursuant to § 375.141.1(2) because he violated an insurance law, in that he failed to report to appear before the Division on October 23, 2018 when issued a Subpoena by the Director.
21. Each violation of insurance laws and regulations is a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
22. Cook's resident individual insurance producer license application may be refused pursuant to § 375.141.1(3) because he obtained or attempted to obtain a license by material misrepresentation or fraud, when he failed to disclose his two Assault Third Degree convictions, in violation of § 565.070. *State v. Mark M. Cook*, Jefferson Co. Cir. Ct., No. 08JE-CR03688 and *State v. Mark M. Cook*, St. Francois Co. Cir. Ct., No. 08D7-CR00355.
23. Cook's resident individual insurance producer license may also be refused pursuant to § 375.141(6) because Cook has been convicted of crimes involving moral turpitude, Assault Third Degree, in violation of § 565.070. *State v. Mark M. Cook*, Jefferson Co. Cir. Ct., No. 08JE-CR03688 and *State v. Mark M. Cook*, St. Francois Co. Cir. Ct., No. 08D7-CR00355. See *Dir. Dept. of Public Safety v. Carter*, Mo. Admin. Hrg. Comm'n, No. 090160PO (Oct. 18, 2011), *State Bd. of Nursing v. Blaine*, Mo. Admin. Hrg. Comm'n, No. 08-2134 BN (Sept. 18, 2009).
24. The above described instances are grounds upon which the Director may refuse to issue Cook's individual resident insurance producer license. Cook has been convicted of two Class C misdemeanors of Assault Third Degree, crimes of moral turpitude, yet he failed to mention this criminal case on both his Application despite questions requiring him

to do so. Cook also made misstatements on his Application and failed to answer two inquiry letters and appear for a Subpoena conference issued by the Department.

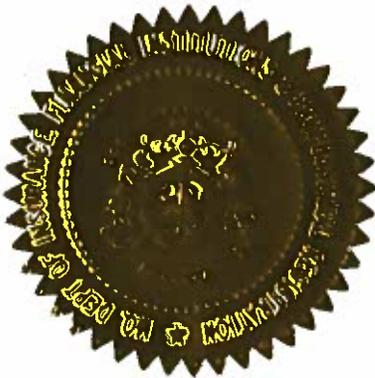
25. The Director has considered Cook's history and all of the circumstances surrounding Cook's Application. Issuing an insurance producer license to Cook would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Cook an individual resident insurance producer license.
26. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license Application of **MARK M. COOK** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 14th DAY OF AUGUST, 2019.



Chlora Lindley-Myers
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 15th day of August, 2019, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Mark M. Cook
920 Westwold Ave.
Ferguson, MO 63106

No. 1Z0R15W84299114901



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