



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:

Dale Keith Cooper,

Applicant.

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Case No. 100512454C

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On September 16, 2010, Mary S. Erickson, Senior Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Dale Keith Cooper. 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 summary order:

FINDINGS OF FACT

1. Dale Keith Cooper ("Cooper") is an individual residing in Arizona.
2. On or about January 14, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") filed Cooper's Uniform Application for Individual Non-Resident Insurance Producer License ("Application").
3. In his Application, Cooper listed his residential address as 844 E. Bell Rd., Apt. 3079, Phoenix, Arizona, 85022. Cooper listed his business and mailing address as 10400 N. 25th Ave., Suite 200, Phoenix, Arizona, 85021.
4. In the section of the Application headed "Background Questions," Background Question No. 1 asks: "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"
5. Cooper answered "Yes" to Background Question No. 1.
6. Background Question No. 2 asks: "Have you . . . ever been involved in an administrative proceeding regarding any professional or occupational license, or registration?"
7. With his Application, Cooper provided a hand-written, signed document entitled "Statement of Fact(s)" in which he states: "I was convicted on 5/31/2006 of DUI by a jury trial. I received a Fine and 24 hour jail sentence."

8. Also with his Application, Cooper provided a copy of an Order "Vacating Judgment of Guilt and Dismissing Charges" entered on September 25, 1995 by the Superior Court of Arizona, Maricopa County, *State of Arizona v. Dale Keith Cooper*, Case No. CR78-00912. (the third letter/digit in the case number is illegible).

9. Cooper answered "No" to Question No. 2.

10. On January 26, 2009, Special Investigator Dana Whaley, Consumer Affairs Division, mailed by U.S. Mail, postage prepaid, a letter to Cooper at his business and mailing address (address of record) provided on his Application, requesting a detailed explanation of Cooper's conviction because his explanation attached to his Application was vague. Investigator Whaley also asked Cooper to provide certified copies of the charges, judgment, and sentence as required by the Application.

11. The January 26, 2009 letter stated that Cooper's response was due on or before February 17, 2009.

12. The Consumer Affairs Division did not receive a response from Cooper to the January 26, 2009 letter. The letter was also not returned by the U.S. Postal Service as undeliverable.

13. On February 26, 2009, Investigator Whaley sent a second letter, by U.S. Mail, postage prepaid, to Cooper at his address of record stating that no reply had been received to the January 26, 2009 letter, which was also enclosed with the second letter. Investigator Whaley requested that Cooper give this matter his immediate attention and forward his reply by March 19, 2009.

14. The Consumer Affairs Division did not receive a response from Cooper to the February 26, 2009 letter. The letter was also not returned by the U.S. Postal Service as undeliverable.

15. On February 26, 2009, the South Dakota Department of Revenue and Regulation denied Cooper's application as a non-resident insurance producer in South Dakota for failure to provide documentation and an explanation regarding his felony conviction.

16. On or about March 2, 2010, the Delaware Insurance Department revoked the non-resident insurance producer license of Cooper and levied a \$500.00 monetary penalty against Cooper for failure to report administrative action taken by another state against Cooper.

CONCLUSIONS OF LAW

16. Section 375.141 RSMo (Supp. 2009)¹ 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 All statutory references are to RSMo (Supp. 2009) unless otherwise indicated.

(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;

* * *

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

17. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(2) Except as required under subsection (2)(B)—

(A) 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.

18. 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 (Mo. App. 1990).

19. The principal purpose of § 375.141 RSMo is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

20. By answering "No" to Background Question No. 2 on his Application for licensure even though he had been involved in two administrative proceedings regarding his insurance licenses in other states, Cooper intentionally provided materially incorrect, misleading, incomplete or untrue information, which is a cause to refuse Cooper's non-resident insurance producer license under § 375.141.1(1).

21. Cooper's failure to indicate the administrative actions taken against him by South Dakota and Delaware on his Application in response to Question No. 2 demonstrates Cooper's attempt to obtain his Missouri license through material misrepresentation or fraud, which is a cause to refuse Cooper's insurance producer license under § 375.141.1(3).

22. Cooper failed to respond to two Division of Consumer Affairs' inquiries regarding his criminal conviction. These failures to respond constitute cause to refuse Cooper's application for a non-resident insurance producer license under § 375.141.1(2) for violating 20

CSR 100-4.100.

23. Under § 375.141.1(9), Cooper's non-resident insurance producer license may be refused because he has had an insurance producer license revoked in Delaware on or about March 2, 2010.

24. The Director has considered Cooper's history and all of the circumstances surrounding Cooper's application. Cooper intentionally provided incorrect, misleading or untrue information in his license application and attempted to obtain a license through material misrepresentation or fraud by answering "No" to the question regarding administrative action taken against him in other states. Cooper was refused a license in South Dakota and revoked and fined by Delaware. Also, Cooper failed to respond to inquiries from the Consumer Affairs Division. Granting Cooper a Missouri non-resident insurance producer license would not be in the interest of the public.

25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Dale Keith Cooper is hereby summarily **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF SEPTEMBER, 2010.


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 22nd day of September, 2010, a copy of the foregoing Notice and Order was served upon the Applicant Dale Keith Cooper in this matter by certified mail No. 7007 0710 0002 2055 2762 at

Dale Keith Cooper
Bell Rd., Apt. 3079
Phoenix, AZ 85022

I hereby certify that on this 22nd day of September, 2010, a copy of the foregoing Notice and Order was served upon the Applicant Dale Keith Cooper in this matter by certified mail No. 7007 0710 0002 2055 2763 at

Dale Keith Cooper
10400 N. 25th Ave.
Suite 200
Phoenix, AZ 85021

