

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

IN RE:)
)
 DAVID LEROY STEPHENS,) **Case No. 140815602C**
)
 Applicant.)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On December 29, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a resident insurance producer license to David Leroy Stephens. 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. David Leroy Stephens ("Stephens") is a Missouri resident with a residential and mailing address of record of 3127 Norwood Ave., St. Louis, MO 63115.
2. On December 26, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") electronically received Stephens's completed Uniform Application for Individual Producer License/Registration ("Application").
3. Stephens answered "Yes" to Background Information Question 1 of the Application which asked, in relevant part:

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

* * *

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. Stephens also answered "Yes[;] U.S. Government (IRS)" to Background Information Question 4 of the Application which asked:

Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

If you answer yes, identify the jurisdiction(s): _____

5. Stephens submitted with his Application:
 - a. written statements referencing four arrests, a probation discharge, and an Internal Revenue Service Notice and Demand for Payment;
 - b. a copy of a Court Order in *State v. David Stephens*, St. Louis City Cir. Ct., Case No. 961-2297;¹
 - c. a copy of a three page Sentence and Judgment in *State v. David Stephen* [sic], St. Louis City Cir. Ct., Cause No. 971-0073;²
 - d. copies of a three page Sentence and Judgment and Court Order discharging probation in *State v. David Stephens*, St. Louis City Cir. Ct., Cause No. 951-4133;³ and
 - e. a copy of a September 2, 2013 Notice and Demand for Payment from the Internal Revenue Service regarding Stephens's 2003 individual income tax.
6. On May 21, 1996, Stephens pled guilty to Possession of a Controlled Substance - Heroin, a Class C Felony, in violation of § 195.202, RSMo.⁴ The court suspended imposition of sentence and ordered Stephens to serve one year of supervised probation. *State v. David Leory* [sic] *Stephens*, St. Louis City Cir. Ct., Case No. 22951-04133-01.
7. On January 31, 1997, Stephens pled guilty to Unlawful Use of a Weapon / Carrying Concealed, a Class D Felony, in violation of § 571.030.1, RSMo. The court convicted Stephens and sentenced him to two years' incarceration, and additionally revoked Stephens's supervised probation in *State v. David Leory* [sic] *Stephens*, St. Louis City Cir. Ct., Case No. 22951-04133-01, convicted Stephens therein, and sentenced him to seven years' incarceration. Finally, the court suspended execution of both the two- and seven-year sentences and ordered Stephens to serve 120 days' "shock" incarceration. *State v. David Leroy Stephens*, St. Louis City Cir. Ct., Case No. 22971-00073-01.

¹ The certification of records page indicates that the case number is "22961-02297," however the actual record bears the handwritten case number set forth above.

² The certification of records page indicates that the case number is "22971-00073," however the actual records bear the handwritten cause number set forth above.

³ The certification of records page indicates that the case number is "22951-04133," however the actual records bear the handwritten cause number set forth above.

⁴ All references to criminal statutes are to those contained in the version of the Revised Statutes of Missouri pursuant to which each judgment was rendered.

8. On March 24, 2011, the St. Louis City Circuit Court entered a judgment against Stephens for approximately \$2,153.71 of unpaid Missouri individual income tax, which remains unsatisfied. *Dep't of Revenue v. David L. Stephens*, St. Louis City Cir. Ct., Case No. 1122-MC02319.

9. Stephens included with his Application a page reading, verbatim:

Question 4

Received letter dated Sept. 2, 2013 with a notice that I owe 2,720.01, from previous year. Noticed asked that I set up payment arrangement before a penalty additional interest is charged.

Following this page was a copy of an Internal Revenue Service Notice and Demand for Payment addressed to Stephens and setting forth the same amount due and date. However, according to the document, the tax was not relative to the "previous year," but instead the filing period 2003.

10. On October 10, 2014, Special Investigator Alicia Edmonson, with the Consumer Affairs Division of the Department ("Division"), mailed Stephens an inquiry letter by first-class mail, postage prepaid, asking him to "provide a tax compliance letter or proof of repayment" and advising him that "[p]ursuant to 20 CSR 100-4.100(2)(A), your adequate response is due twenty days from the postmark of this letter, or by **October 30, 2014**. Failure to respond could result in negative action against your application by this Department." (Emphasis in original.)
11. The inquiry letter was not returned to the Division as undeliverable; therefore, Stephens is presumed to have received it.
12. The Division has received no correspondence or communication from Stephens since sending the inquiry letter, nor has Stephens demonstrated a reasonable justification for the delay.

CONCLUSIONS OF LAW

13. Section 375.141.1, RSMo (Supp. 2014),⁵ 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) Violating any insurance laws, or violating any regulation, subpoena or

⁵ All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2014 RSMo Supplement, unless otherwise noted.

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]

* * *

(14) Failing to comply with any administrative or court order directing payment of state or federal income tax.

14. Title 20 CSR 100-4.100(2)(A) 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.

15. "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).
16. "Missouri courts have invariably found moral turpitude in the violation of narcotic laws[.]" *Brehe v. Mo. Dep't of Elementary & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007) (internal citation omitted).
17. "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).
18. The Director may refuse to issue Stephens a resident insurance producer license pursuant to § 375.141.1(2) because Stephens has violated a regulation of the Director, specifically 20 CSR 100-4.100(2)(A), by not mailing a timely and adequate response to the Division's inquiry letter, and not demonstrating reasonable justification for that delay.
19. The Director may refuse to issue Stephens a resident insurance producer license pursuant to § 375.141.1(6) because Stephens has been convicted of two felonies, specifically:
- a. Unlawful Use of a Weapon / Carrying Concealed, a Class D Felony, in violation of § 571.030.1, RSMo, *State v. David Leroy Stephens*, St. Louis City Cir. Ct., Case No. 22971-00073-01; and

b. Possession of a Controlled Substance - Heroin, a Class C Felony, in violation of § 195.202, RSMo, *State v. David Leory [sic] Stephens*, St. Louis City Cir. Ct., Case No. 22951-04133-01.

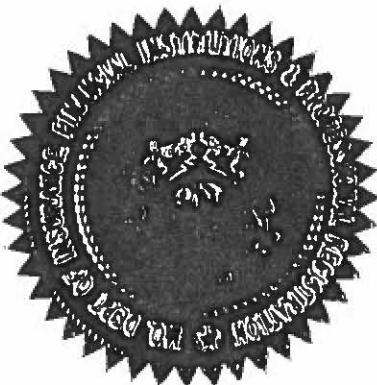
20. The Director may refuse to issue Stephens a resident insurance producer license pursuant to § 375.141.1(6) because Stephens has been convicted of a crime involving moral turpitude, specifically Possession of a Controlled Substance - Heroin, a Class C Felony, in violation of § 195.202, RSMo. *Id.*
21. Each felony and crime of moral turpitude of which Stephens was convicted constitutes a separate and sufficient cause for refusal to issue Stephens a resident insurance producer license pursuant to § 375.141.1(6).
22. The Director may refuse to issue Stephens a resident insurance producer license pursuant to § 375.141.1(14) because Stephens has failed to comply with administrative or court orders directing payment of state and federal income taxes, as evinced by the unsatisfied judgment in *Dep't of Revenue v. David L. Stephens*, St. Louis City Cir. Ct., Case No. 1122-MC02319, and documents Stephens submitted with his Application.
23. The Director has considered Stephens's history and all of the circumstances surrounding Stephens's Application. Issuing Stephens a resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Stephens a resident insurance producer license.
24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license application of **David Leroy Stephens** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF DECEMBER, 2014.




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 30th day of December, 2014, 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:

David Leroy Stephens
3127 Norwood Avenue
St. Louis, Missouri 63115-1037

No. 1Z0R15W84293700832



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