



DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:)	
)	
MATTHEW J. GARRETT,)	Case No. 2003120339C
)	
Applicant.)	

ORDER REFUSING TO ISSUE
A RESIDENT INSURANCE PRODUCER LICENSE

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance, takes up the above matter for consideration and disposition. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Matthew J. Garrett (“Garrett”), is a Missouri resident with a reported residential and mailing address of 4050 Sweetgum Drive, Imperial, Missouri 63052.
2. On January 3, 2020, Garrett submitted an electronic Application for an insurance producer license (“Application”) to the Department of Commerce and Insurance.
3. Background Question No. 1A on his Application states:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor? You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude juvenile adjudications (offenses where you were adjudicated

delinquent in a juvenile court.)

4. Garrett answered “No” to Background Question No. 1A on the Application.
5. Background Question No. 1B on his Application states:

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court.)
6. Garrett answered “Yes” to Background Question No. 1B and provided documents regarding the felony convictions.
7. The Attestation Section of the Application provides is pertinent part:
 1. I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
8. Garrett answered “Yes” to the Attestation Section of the Application.
9. Garrett submitted a document offering his explanation regarding certain criminal charges and convictions for *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 07JE-CR04976-01.
10. The documents provided by Garrett revealed that on or about May 9, 2008, the Jefferson County Prosecutor charged Garrett with committing the Class B Felony, sale of a controlled substance (marijuana); in violation of § 195.211, RSMo, for an incident that occurred on or about May 4, 2007 (Count I); and the Class B Felony, sale of a controlled substance (marijuana), in violation of § 195.211, RSMo, for an incident that occurred on or about May 15, 2007 (Count II). *Id.*
11. The documents provided by Garrett further show that on August 19, 2008, Garrett pleaded guilty to Counts I and II, set out above in paragraph 10. On September 30, 2008, the Jefferson County Circuit Court accepted Garrett’s guilty pleas, found him guilty of the two felonies and sentenced Garrett to be confined for a total of five years on Counts I and II, to run concurrently. The court then suspended execution of the sentence and placed Garrett on probation, with certain conditions, for five

years. The Court further ordered that Garrett pay certain costs. *Id.*

12. The Division investigated Garrett's Application and discovered that in addition to the felony charges and convictions he disclosed on his Application, on or about August 27, 2008, the Jefferson County Prosecutor, in an Amended Information, charged Garrett with the Class A Misdemeanor of possession of a controlled substance, in violation of § 195.202, RSMo. *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 08JE-CR02763.
13. On November 14, 2008, Garrett was found guilty of the Class A Misdemeanor of possession of a controlled substance and sentenced to pay a fine. *Id.*
14. Further, the Division's investigation found that on or about September 29, 2009, the Jefferson County Prosecutor charged Garrett with failure to yield to an emergency vehicle, a Class C misdemeanor, in violation of § 304.022, RSMo for an incident that occurred on or about March 31, 2009 (Count I); and with peace disturbance, a Class B misdemeanor, in violation of § 574.010, RSMo for an incident that also occurred on or about March 31, 2009 (Count II). *State v. Matthew Garrett*, Jefferson Co. Cir. Ct., Case No. 09JE-CR03614.
15. On October 24, 2011, the Jefferson County Prosecutor entered an Order of Nolle Prosequi as to Count I of the charge. *Id.*
16. Also on October 24, 2011, following a trial by jury, the jury found Garrett guilty of peace disturbance, a Class B misdemeanor (Count II) and declared the punishment to be thirty days imprisonment in the Jefferson County Jail. *Id.*
17. On November 21, 2011, the Jefferson County Circuit Court overruled Garrett's post-trial motions and sentenced Garrett to thirty days in the Jefferson County Jail. *Id.*
18. On January 14, 2020, Angie Gross, Special Investigator with the Division ("Gross") sent Garrett a letter pursuant to 20 CSR 100-4.100 seeking information regarding the Class B Felony case and the two misdemeanor cases, including why Garrett had not disclosed the two misdemeanor convictions on his Application. *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 07JE-CR04976-01; *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 08JE-CR02763; and *State v. Matthew Garrett*, Jefferson Co. Cir. Ct., Case No. 09JE-CR03614. The inquiry letter went on to notify Garrett that he had twenty days to respond and warned him that a failure to respond could result in disciplinary action by the Department.
19. Garrett did respond to the January 14, 2020, inquiry letter, arguing, among other

things, that he did not think he had to disclose the two misdemeanor convictions because they happened a long time ago and that the laws regarding marijuana are changing.

20. Garrett disclosed the two felony convictions, which occurred in 2008, in his Application, but did not disclose the two misdemeanor convictions, which occurred in 2008 and 2011, later than his two felony convictions. *Id.*
21. Garrett signed the Attestation Section of the Application certifying that the information he provided in his Application was accurate. However, he failed to disclose the two misdemeanor convictions despite the language of Background Question No. 1A asking if he had “ever” been convicted of a misdemeanor. *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 08JE-CR02763; and *State v. Matthew Garrett*, Jefferson Co. Cir. Ct., Case No. 09JE-CR03614.
22. It is reasonable to infer, and hereby found as fact, that Garrett did not disclose the November 14, 2008, Class A misdemeanor conviction and the October 24, 2011, Class B misdemeanor conviction in order to increase the chances that the Department would issue him a license.

CONCLUSIONS OF LAW

23. Section 375.141.1, RSMo 2016,¹ provides, in pertinent 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 further statutory references are to RSMo 2016 unless otherwise indicated.

24. Rule 20 CSR 100-4.100(2)(A) provides as follows:

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.

25. The Director may refuse to issue a resident insurance producer license to Garrett pursuant to § 375.141.1(1) because Garrett intentionally failed to include two misdemeanor convictions in his Application. *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 08JE-CR02763; and *State v. Matthew Garrett*, Jefferson Co. Cir. Ct., Case No. 09JE-CR036147.
26. The Director may refuse to issue a resident insurance producer license to Garrett pursuant to § 375.141.1(3) because while Garrett answered "Yes" to Background Question No. 1B and did provide some information, he did not disclose his two misdemeanor convictions in response to Background Question No. 1A in *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 08JE-CR02763; and *State v. Matthew Garrett*, Jefferson Co. Cir. Ct., Case No. 09JE-CR03614, the inference being that he failed to disclose the misdemeanor charges and convictions in order to obtain a license.
27. The Director may refuse to issue a resident insurance producer license to Garrett pursuant to § 375.141.1(6) because Garrett has been convicted of two felonies. *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 07JE-CR04976-01.
28. The Director may refuse to issue a resident insurance producer license to Garrett because Garrett has been convicted of crimes involving moral turpitude. *State v. Matthew J. Garrett*, Jefferson Co. Cir. Ct., Case No. 08JE-CR02763; and *State v. Matthew Garrett*, Jefferson Co. Cir. Ct., Case No. 09JE-CR03614.
29. The above-described instances are grounds upon which the Director may refuse to issue Garrett a resident insurance producer license.
30. Accordingly, and for all of the reasons given in this Petition, the Director has considered Garrett's history and all of the circumstances surrounding Garrett's Application and is exercising her discretion to refuse to issue Garrett a resident insurance producer license.

31. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Application of **Matthew J. Garrett** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 07th DAY OF April, 2020.

Chlora Lindley-Myers
CHLORA LINDLEY-MYERS
DIRECTOR



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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 10th day of April, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Matthew J. Garrett
4050 Sweetgum Drive
Imperial, Missouri 63052

Tracking No. 1Z0R15W84291024157



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