



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In the Matter of:) DIFP Case No. 11-1101749C
NEAL M. HUDSON) AHC Case No. 12-0042 DI
)

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER OF DISCIPLINE**

Based on the competent and substantial evidence on the whole record, I, John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration, hereby issue the following Findings of Fact, Conclusions of Law, and Order of Discipline.

Findings of Fact

1. John M. Huff is the duly appointed Director ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration (the "Department"), whose duties, pursuant to Chapters 374 and 375, RSMo, include supervision, regulation and discipline of individual insurance producers.

2. The Department of Insurance, Financial Institutions and Professional Registration first issued Respondent Neal M. Hudson ("Hudson") an individual insurance producer license (#0224235) on August 27, 2007, which is currently active and will expire on August 27, 2013.

3. On January 10, 2012, the Director filed a Complaint with the Administrative Hearing Commission ("Commission"), seeking a finding that cause existed to discipline Hudson's individual insurance producer license under § 375.141.1(1), (2), (3), and (6) RSMo (Supp. 2011).¹

4. On January 18, 2012, Hudson was served with a copy of the Complaint. Hudson filed an Answer to the Complaint with the Commission on February 14, 2012.

5. On May 9, 2012, the Director filed a Motion for Summary Decision and Suggestions in Support, seeking the Commission's order finding cause for discipline of Hudson's license under § 375.141.1(1), (2), (3), and (6). Hudson filed Suggestions in Opposition to Petitioner's Motion for Summary Decision on June 8, 2012.

6. On June 28, 2012, the Commission issued its Decision, finding cause to discipline Hudson's insurance producer license pursuant to § 375.141.1(1), (2), (3), and (6).

7. The Commission found the following in its Decision:

a. On October 8, 1998, Hudson pled guilty in the associate circuit court of Wayne County, Missouri, to misdemeanor possession of marijuana, under 35 grams ("the 1998 matter"). He was ordered to pay a \$150 fine;

b. On August 16, 2005, Hudson pled guilty in the associate circuit court of St. Francois County, Missouri, to the Class B misdemeanor of peace disturbance ("the 2005 matter"). He was ordered to pay a \$100 fine;

c. Background Question #1 of Hudson's original application made in 2007 ("the original application") asks:

Have you ever been convicted of a crime, had a judgment withheld

¹ All statutory references in this Order shall be to RSMo (Supp. 2011) unless otherwise indicated.

or deferred, or are you currently charged with committing a crime?
“Crime” includes a misdemeanor, felony or military offense . . .
“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 having been given probation, a suspended
sentence or a fine.

d. Hudson answered “No” to Background Question #1. He signed the original application under a clause certifying under penalty of perjury that the information submitted was true and complete, and stating:

I am aware that 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.

e. Hudson renewed his license in July 2009. The renewal form did not request, and Hudson did not provide, any information regarding his criminal history;

f. On August 21, 2009, a two-count complaint was filed against Hudson in the circuit court of St. Francois County, Missouri, alleging the Class A felony of attempt to produce a controlled substance and the Class C felony of possession of a controlled substance (“the 2009 matter”);

g. Pretrial hearings were held on the 2009 matter on September 24, 2009, November 16, 2009, and January 21, 2010;

h. On June 18, 2010, Hudson pled guilty in the circuit court of St. Francois County to the Class B felony of attempt to produce a controlled substance;

i. Hudson did not report his pretrial hearings in the 2009 matter within 30 days of the hearing dates, or provide the Director with a copy of the indictment or other court documents within 30 days of his initial arraignment or preliminary hearing; and

j. Hudson first reported the 2009 matter to the Director when he filed his 2011 renewal application with the Department on August 26, 2011. Hudson included with this application information about the 2005 matter and a copy of his criminal record from the Missouri State Highway Patrol. The latter did not contain information about the 1998 matter, and Hudson did not otherwise disclose it.

8. The Commission found cause to discipline Hudson's insurance producer license based on the following conclusions:

a. Hudson intentionally omitted information about his criminal history when he submitted his original license application, thereby providing incorrect, misleading, incomplete or untrue information on his original license application, which is cause for discipline under § 375.141.1(1);

b. Hudson violated § 375.141.7, by failing to report the 2009 criminal matter to the Director, which is cause for discipline under § 375.141.1(2);

c. Hudson intended to deceive the Director when he answered "No" to Background Question #1 on his original license application, and therefore, Hudson obtained his license through a material misrepresentation, subjecting him to discipline under § 375.141.1(3); and

d. Hudson pled guilty to a felony or crime of moral turpitude, subjecting him to discipline under § 374.141.1(6).

9. On August 1, 2012, the Commission certified the record of its proceedings to the Director pursuant to § 621.110.

10. The Director served Hudson with a Notice of Hearing, setting the disciplinary hearing for September 13, 2012. At the request of the Department's Consumer Affairs Division, the hearing officer, Mary S. Erickson, continued the hearing and issued an Amended Notice of Hearing setting the hearing for October 16, 2012.

11. At the October 16, 2012 disciplinary hearing, Hudson appeared and was represented by counsel, Diana Carter. Carolyn H. Kerr appeared as counsel for the Consumer Affairs Division.

12. At the hearing, the hearing officer took official notice of the Commission's record of proceedings and admitted it as evidence as Exhibit 1. Hudson appeared and testified on his own behalf.

13. Hudson testified, in relevant part, as follows:

a. Hudson did not fill out the original application: "I thought everything was there and I just signed it." *Disciplinary Hearing Transcript, ("Tr.")* 15.

b. He has not had any problems with drugs or alcohol or any criminal problems since 2010. *Tr. 15 – 16.*

c. Hudson explained that he currently performs duties that do not require a license, such as data entry and answering the phone. If his license is suspended or he is put on probation, Hudson would continue to be supervised. *Tr. 18.*

d. Hudson stated he has no prospects for a different job or line of work if he is not able to continue where he is currently employed. *Tr. 19.*

14. The Consumer Affairs Division recommended the revocation of Hudson's insurance producer license. *Tr. 25.* Ms. Carter recommended supervision, additional continuing

education courses, and temporary suspension of Hudson's license. *Tr. 26-27.*

15. After the disciplinary hearing, the hearing officer issued a briefing schedule to the parties. The Consumer Affairs Division submitted its Proposed Findings of Fact, Conclusions of Law, and Order of Discipline on November 26, 2012. Hudson filed his Post-Hearing Brief on January 7, 2012.

16. The Director hereby incorporates the Commission's June 28, 2012 Decision referenced herein and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof. Reg'n vs. Neal M. Hudson*, No. 12-0042 DI (Mo. Admin. Hrg. Comm'n, June 28, 2012).

Conclusions of Law

17. Section 374.051.2, relating to a proceeding to revoke or suspend a license, states:
2. If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine appropriate discipline.
18. Pursuant to §§ 375.051, 375.141, and 621.110, the Director has the discretion to discipline Hudson's insurance producer license, including the discretion to revoke such license.
19. Section 375.141 states, in relevant 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 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;

* * *

7. Within thirty days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution for a felony or a crime involving moral turpitude of the producer taken in any jurisdiction. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

20. 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).

21. The Commission concluded that Hudson intentionally omitted information about his criminal history on his original application and that history was material because “[i]nformation regarding an applicant’s criminal history is obviously an important factor in the Director’s decision on an application for licensure.” *Decision*, p. 5. Therefore, he is subject to discipline under § 375.141.1(1) and (3).

22. The Commission also concluded that Hudson failed to report the 2009 criminal matter to the Director as required by § 375.141.7. The Director agrees with the Commission’s conclusion that there is no intent requirement for finding cause to discipline under § 375.141.1(2) for failure to report the criminal prosecution under § 375.141.7. *Decision*, p. 6.

23. Finally, Hudson is subject to discipline pursuant to § 375.141.1(6) for having been convicted of the felony or a crime of moral turpitude.

24. Hudson's intentional failure to reveal his criminal history to the Director, despite signing his original application under penalty of perjury that the information on the application was true and complete, as well as Hudson's failure to report to the Director the 2009 criminal prosecution, do not demonstrate the honesty and integrity expected of an insurance producer in this state. Further, these acts show disregard of Missouri's insurance laws and for the authority of the Director and the Department in the regulation of the business of insurance. Finally, Hudson had a conviction of a felony or crime of moral turpitude. Each of these acts is serious enough on its own to warrant revocation. Cumulatively, these acts support the conclusion that it is in the interest of the protection of the citizens of this state to revoke Hudson's license.

25. Based on the nature of the aforementioned conduct, sufficient grounds exist to revoke Hudson's Missouri individual insurance producer license pursuant to § 375.141.1(1), (2), (3), and (6).

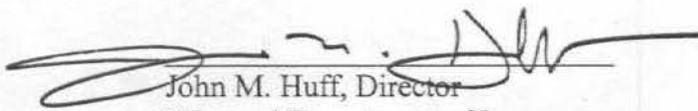
26. This Order is in the public interest.

ORDER

Based on the evidence presented, the individual insurance producer license of **Neal M. Hudson** (License No. 0224235) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 6TH DAY OF FEBRUARY, 2013.




John M. Huff, Director
Missouri Department of Insurance,
Financial Institutions and
Professional Registration

CERTIFICATE OF SERVICE

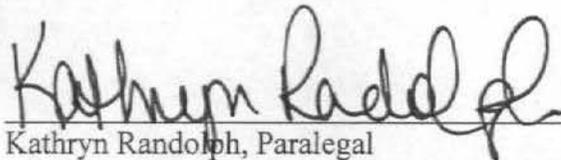
The undersigned hereby certifies that a true and correct copy of the foregoing was served by U.S. Mail, postage prepaid, and Certified Mail, on this 7th day of January, 2013 to:

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Certified No. 7009 3410 0001 9255 5993

And by hand-delivery to:

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