



FINAL ORDER
EFFECTIVE
04-30-2018

State of Missouri

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

IN RE:)
)
JOSEPH A. MAZZELLA, JR.,) **Case No. 171219623C**
)
Applicant.)

ORDER REFUSING TO ISSUE
AN INSURANCE PRODUCER LICENSE

On March 16, 2018, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Joseph A. Mazzella, Jr. 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. Joseph A. Mazzella, Jr. (“Mazzella”) is a Missouri resident with a residential and mailing address of 718 Woodhill Avenue, Fulton, Missouri 65251.
2. On October 2, 2017, Mazzella submitted an electronic application for a resident insurance producer license (“Application”).
3. Mazzella accepted the “Attestation” section of the Application, which reads, in relevant part, as follows:

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 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.

4. With his Application, Mazzella also submitted a “Short Form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. § 1033 and 1034” (“Section 1033 Application”).

5. Mazzella signed the Section 1033 Application before a notary and agreed to and affirmed the following statement:

I, Joseph Mazzella (name of applicant), swear under penalty of law that my statements in the attached [Section 1033] Application, and the documents appended thereto, are true and correct and complete. I understand that my statements in the [Section 1033] Application and the attachments to my [Section 1033] Application will be relied upon by the Insurance Commissioner of the State of Missouri in the execution of his or her duties under the Insurance Code, and 18 U.S.C. § 1033, in making a decision....

6. Background Question Number 1a of the Application asks:

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).

7. Mazzella answered "Yes" to Background Question Number 1a.

8. Background Question Number 1b of the Application asks, in relevant part:

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).

9. Mazzella answered "Yes" to Background Question Number 1b. Mazzella provided a written statement and documentation with his Application regarding the following criminal history:

- a. On December 2, 2005, Mazzella pled guilty to the Class A Misdemeanor of Receiving Stolen Property, in violation of § 570.080.¹ *State v. Joseph A.*

¹ This and all other criminal citations are to that version of the Revised Statutes of Missouri in effect at the time of the commission of the crime.

Mazzella, Callaway Co. Cir. Ct., Case No. 05CW-CR01071. The court suspended imposition of sentence and placed Mazzella on unsupervised probation for two years. *Id.*

b. On October 21, 2009, Mazzella pled guilty to the Class C Felony of Receiving Stolen Property, in violation of § 570.080. *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01338-01. The court sentenced Mazzella to seven years in the Missouri Department of Corrections under § 559.115, with the sentence to be served concurrently. *Id.*

c. Also on October 21, 2009, Mazzella pled guilty to the Class B Felony of Robbery in the Second Degree, in violation of § 569.030. *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01. The court sentenced Mazzella to seven years in the Missouri Department of Corrections under § 559.115, with the sentence to be served concurrently. *Id.*

10. Regarding his Robbery in the Second Degree conviction, Mazzella provided the following explanation in both his Application and in his Section 1033 Application:

A friend offered to give me gas money if I gave him a ride to a local gas station, so I drove him there. Unknown to me while he was inside he robbed the business. After he got into the car we left and went to a friend's house. That is when I learned about what had happened. I returned to the gas station to tell the police what happened and tried to talk to an officer but I was sent away. A few days later a Police Detective came to talk to me and I told him what had happened. I was arrested and charged with Robbery 2nd Degree (Class B Felony) & Receiving Stolen Property (Class C Felony). Because of my cooperation with the police, during the court process I was offered a plea deal of 120 days in jail with a suspended execution of sentence which I accepted. I completed my probation without incident and was released early in January 2015. (Case #: 08JE-CR01374-01 & 08JE-CR01338-01)

11. Mazzella's statement to the police differed from the above in material respects. The detective who signed the probable cause statement in Mazzella's robbery case (*State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01) outlined Mazzella's statements to police, given after Mazzella was read his *Miranda*² rights, as follows:

² *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602 (1966).

An interview with Mazzella under Miranda revealed he was contacted by Declue [Mazzella's accomplice] asking for a ride which Mazzella agreed to. Mazzella stated he observed Declue change into black shoes, pants and leather coat and Declue told him "this is what it looks like" and got into his vehicle. Mazzella stated he drove Declue to the area of 61 and I-55 where he and Declue sat in the dark watching a BP gas station. **Mazzella stated he knew what Declue was going to do and that they had a conversation about robbing the station while watching it.** Due to the amount of traffic at the BP station, Mazzella stated he then drove them to Comfort Inn where he parked behind the building at Declue's request. **Mazzella stated Declue walked away from the vehicle toward the 711 store and he knew Declue was going to rob the store.** Mazzella stated Declue returned minutes later and he drove them from the scene to a friend[']s house nearby. Mazzella stated he observed Declue with cash and a knife and Declue attempted to count the money but was unable to due to being so nervous. Mazzella stated he counted the cash for Declue which totaled \$500.00.

Mazzella admitted to taking \$200.00 in cash of the robbery money due to being broke and having no money knowing it was wrong to do so. It should be noted, Mazzella remained parked while Declue was robbing the 711 store and never left the scene without him nor did he ever make any attempts of contacting the police.

Probable cause statement, *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01 (global capitalization from original omitted, emphases added).

12. On November 7, 2017, Division Special Investigator Jodi Lehman ("Lehman") sent an inquiry letter to Mazzella via first class mail, postage prepaid, to Mazzella's residential and mailing address. In it, Lehman indicated that she had found discrepancies as between the probable cause statement in *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01, which included Mazzella's statements to police after being read his *Miranda* rights, and Mazella's personal criminal history summary provided with his Application and his Section 1033 Application. Lehman asked Mazzella to explain the discrepancies and indicated that Mazzella's response was due in twenty days.
13. On November 9, 2017, Mazzella responded to Lehman's inquiry letter via email. Mazzella asserted that he "forgot the details" of the robbery for which he was sentenced to the Missouri Department of Corrections. Mazzella indicated that he gave his friend a ride, and the friend, "started talking about robbing a gas station."

Mazzella claimed, "I didn't think he was going to, I really didn't think he was that stupid and could ever do anything like that." Mazzella also indicated that after they left the gas station, they went to a friend's house, and that "[w]hen we got into the house, Matthew [Declue, Mazzella's accomplice], pulled a handful of money out of his pockets, this is when I realized he actually rob [sic] the gas station."

14. It is inferable, and hereby found as fact, that Mazzella misrepresented and minimized his role in his robbery case, *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01, in his Application and in his Section 1033 Application in the hopes that the Director would look more favorably upon his Application and his Section 1033 Application and issue an insurance producer license to him.

CONCLUSIONS OF LAW

15. Section 374.210.1(1), an insurance law, provides:

It is unlawful for any person in any investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, or chapters 375 to 385, to:

- (1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter, chapter 354, and chapters 375 to 385[.]

16. Section 375.141.1 provides, in 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:

- (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; [or]

* * *

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

17. Mazzella may be refused an insurance producer license under § 375.141.1(1) because he intentionally provided materially misleading or incomplete information in the license application when he indicated, in his Application, that he did not know that his friend was going to rob the gas station at any time before the friend committed the robbery. Contrary to his statements in his Application, Mazzella told police after the robbery that he knew his friend was going to rob a gas station when he gave the friend a ride and that he and his friend discussed robbing a gas station beforehand.
18. Mazzella may also be refused an insurance producer license under § 375.141.1(2) for violating § 374.210.1(1), an insurance law, when he knowingly made false statements upon oath or affirmation in a record submitted to the Director under Chapter 375 when he indicated, in his Application, that he did not know that his friend was going to rob the gas station at any time before the friend committed the robbery. Contrary to his statements in his Application, Mazzella told police after the robbery that he knew his friend was going to rob a gas station when he gave the friend a ride and that he and his friend discussed robbing a gas station beforehand.
19. Mazzella may also be refused an insurance producer license under § 375.141.1(2) for violating § 374.210.1(1), an insurance law, when he knowingly made false statements upon oath or affirmation in a record submitted to the Director under Chapter 375 when he indicated, in his Section 1033 Application, that he did not know that his friend was going to rob the gas station at any time before the friend committed the robbery. Contrary to his statements in his Section 1033 Application, Mazzella told police after the robbery that he knew his friend was going to rob a gas station when he gave the friend a ride and that he and his friend discussed robbing a gas station beforehand.
20. Each instance where Mazzella violated § 374.210.1(1) by knowingly making false statements under oath constitutes a separate and sufficient ground for the Director to refuse to issue an insurance producer license under § 375.141.1(2).
21. Mazzella may also be refused an insurance producer license under § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he indicated, in his Application, that he did not know that his friend was going to rob the gas station at any time before the friend committed the

robbery. Contrary to his statements in his Application, Mazzella told police after the robbery that he knew his friend was going to rob a gas station when he gave the friend a ride and that he and his friend discussed robbing a gas station beforehand.

22. Mazzella may also be refused an insurance producer license under § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he indicated, in his Section 1033 Application, that he did not know that his friend was going to rob the gas station at any time before the friend committed the robbery. Contrary to his statements in his Section 1033 Application, Mazzella told police after the robbery that he knew his friend was going to rob a gas station when he gave the friend a ride and that he and his friend discussed robbing a gas station beforehand.
23. Each instance where Mazzella attempted to obtain a license through material misrepresentation or fraud constitutes a separate and sufficient ground for the Director to refuse to issue an insurance producer license under § 375.141.1(3).
24. Mazzella may also be refused an insurance producer license under § 375.141.1(6) because he has been convicted of two felonies. *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01338-01; *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01.
25. Each felony conviction constitutes a separate and sufficient ground for the Director to refuse to issue Mazzella an insurance producer license under § 375.141.1(6).
26. Mazzella may also be refused an insurance producer license under § 375.141.1(6) because he has been convicted of at least two crimes involving moral turpitude, namely, receiving stolen property and robbery in the second degree. *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01338-01; *State v. Joseph Andrew Mazzella*, Jefferson Co. Cir. Ct., Case No. 08JE-CR01374-01. *See Ide v. Dir. of Dep't of Ins., Fin. Insts. and Prof'l Reg'n*, No. 12-0105 DI (Mo. Admin. Hrg. Comm'n April 2, 2012) (first degree robbery is a crime of moral turpitude); *State v. Bd. of Nursing v. Bungart*, No. 07-0304 BN (Mo. Admin. Hrg. Comm'n Aug. 2, 2007) (felony receiving stolen property is a crime of moral turpitude).
27. Each conviction for a crime involving moral turpitude constitutes a separate and sufficient ground for the Director to refuse to issue Mazzella an insurance producer license under § 375.141.1(6).

28. The above described instances are grounds upon which the Director may refuse to issue Mazzella an individual resident insurance producer license. In his Application and his Section 1033 Application, Mazzella claimed that he knew nothing of his friend's plan to rob a gas station until after the robbery and after he had driven his friend to someone else's house. But when he spoke with police, and after receiving his *Miranda* rights, Mazzella said that he knew that his friend was going to rob a gas station, and that he and his friend discussed the robbery prior to his friend entering the gas station. In paperwork submitted to the Department, Mazzella has failed to be forthcoming and admit his true role in the robbery. Further, Mazzella has been convicted of two felonies, receiving stolen property and robbery in the second degree, and he has been convicted of crimes involving moral turpitude.
29. The Director has considered Mazzella's history and all of the circumstances surrounding Mazzella's Application. Issuing an insurance producer license to Mazzella would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue an individual resident insurance producer license to Mazzella.
30. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license Application of **Joseph A. Mazzella, Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 30th DAY OF March, 2018.



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 4th day of April, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, with signature required, at the following address:

Joseph A. Mazzella, Jr.
718 Woodhill Avenue
Fulton, MO 65251

Tracking No. 1Z0R15W84294179539



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