



FINAL ORDER
EFFECTIVE
3-10-17

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
JOHN FREDERICK MEDINA,) Case No. 161206544C
)
Applicant.)

ORDER REFUSING TO ISSUE
AN INSURANCE PRODUCER LICENSE

On January 31, 2017, the Consumer Affairs Division (“Division”) submitted a Petition to the Acting Director (“Director”) alleging cause for refusing to issue an insurance producer license to John Frederick Medina. 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 order:

FINDINGS OF FACT

1. John Frederick Medina (“Medina”) is a Missouri resident with a residential, business, and mailing address of 3 Eagle Chase Ct., St. Peters, Missouri 63376.
2. On August 4, 2016, Medina submitted an electronic application for a resident insurance producer license (“2016 Application”).
3. Medina accepted the “Attestation” section of the 2016 Application, which reads, in relevant part, as follows:

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 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. I further certify that, under penalty of perjury, a) I have no child-

support obligation, b) I have a child-support obligation and I am currently in compliance with that obligation, or c) I have identified my child support obligation arrearage on this application.

4. Background Question Number 1a of the 2016 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).

5. Medina answered “Yes” to Background Question Number 1a. Medina did not provide any supporting documentation showing that he had been convicted of a misdemeanor or misdemeanors.

6. Background Question Number 1b of the 2016 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).

7. Medina answered “Yes” to Background Question Number 1b. Medina provided documentation with his Application regarding the following felony convictions:

On May 19, 2008, Medina pled guilty to two counts of the Class B Felony of Distribution of a Controlled Substance or Possession with Intent to Distribute a Controlled Substance, in violation of § 195.211.¹ *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01. The court sentenced Medina to 15 years on each count, to be served concurrently, with 120 days of shock incarceration pursuant to § 559.115. *Id.* After Medina completed his 120 days of shock time, the court

¹ This and all criminal statutory citations are to that version of RSMo in effect at the time of the commission of the crime.

suspended execution of his 15-year sentences and placed him on supervised probation for five years. *Id.* On April 1, 2013, and after obtaining earned compliance credits, *see* § 217.703,² Medina was discharged from probation. *Id.*

8. Background Question Number 7 of the 2016 Application asks:

Do you have a child support obligation in arrearage?

If you answer yes,

- a) by how many months are you in arrearage?
- b) are you currently subject to and in compliance with any repayment agreement?
- c) are you the subject of a child support related subpoena/warrant?
(If you answered yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)

9. Medina answered “Yes” to Background Question Number 7. In response to Background Question Number 7a, Medina answered that he was “100” months in arrearage on child support. In response to Background Question Number 7b, Medina indicated that, “Yes,” he was “subject to and in compliance with any repayment agreement.”
10. Because Medina answered “Yes” to Background Question Number 1a and Background Question Number 7, but failed to provide required documentation, the Department’s Licensing Section asked Medina to provide documentary support for his answers to those questions.
11. On September 2, 2016, Medina responded to the Licensing Section and indicated that he should have answered “No” to Background Question Number 1a. Medina did not address his answer to Background Question Number 7 in this response, nor did he provide documentation regarding his child support obligations.
12. On September 9, 2016, Division Special Investigator Dennis Fitzpatrick sent an inquiry letter to Medina via first class mail to Medina’s residential, business, and mailing address, asking for documentation regarding Medina’s undisclosed misdemeanor criminal history. The letter also asked Medina to provide certified documentation for *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01, a felony, and regarding his delinquent child support

² This and all further civil statutory references are to RSMo Supp. 2013 unless otherwise noted.

obligations.

13. In response to the September 9, 2016 inquiry letter, Medina provided certified documentation regarding the following convictions:
 - a. On May 6, 2004, Medina pled guilty to the Class B Misdemeanor of Property Damage in the Second Degree, in violation of § 569.120, and the Class A Misdemeanor of Stealing, in violation of § 570.030. *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 03CR129447. The court sentenced Medina to 10 days in jail on each count. *Id.*
 - b. On March 30, 2007, Medina pled guilty to the Class A Misdemeanor of Unlawful Use of Drug Paraphernalia, in violation of § 195.233. *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 0611-CR03543. The court sentenced Medina to 10 days in jail. *Id.*
 - c. On or about November 27, 2006, Medina pled guilty to the Class C Felony of Possession of a Controlled Substance, in violation of § 195.202. *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0511-CR05349-01. The court suspended imposition of sentence and placed Medina on probation for five years; it also ordered 10 days of jail time, among other conditions. *Id.* On June 15, 2008, the court imposed a sentence of seven years but suspended execution and sentenced Medina to 120 days of shock incarceration pursuant to § 559.115, with that sentence to run concurrently with the sentence in *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01. *Id.* On January 30, 2012, the court entered a judgment and order on a probation violation and sentenced Medina to 60 days' shock time in jail, among other things. *Id.*
14. Also in response to the September 9, 2016 inquiry letter, Medina provided documentation regarding his child support obligation and arrearage which shows that in a December 2004 judgment, Medina was ordered to pay \$42.00 per month in child support for one child. *County of Ventura v. John Frederick Medina*, County of Ventura, California Superior Ct., Case No. D304495. The records also show that, as of October 2012, Medina owed \$3,021.07 and as of September 14, 2016, Medina owed \$5,636.21 in principal and interest in child support arrearages. *Id.*
15. The Division's investigation revealed that on October 23, 2012, the Department received an Application for Motor Vehicle Extended Service Contract Producer License ("2012 Application") from Medina.
16. Medina signed the 2012 Application under oath and before a notary public.

17. The "Attestation" section of the 2012 Application reads, in relevant part, as follows:

1. I hereby certify, under penalty of perjury, that 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. I further certify, under penalty of perjury, that a) I have no child-support obligation, b) I have a child-support obligation and I am currently in compliance with that obligation, or c) I have identified my child support obligation arrearage on this application.

18. Background Information Question Number 1 of the 2012 Application asks:

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

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses. "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.

"Had a judgement withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt was made, but imposition or execution of the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence – sometimes called an "SIS" or "SES").

19. Medina answered "No" to Background Information Question Number 1 on the 2012 Application.

20. Background Information Question Number 7 of the 2012 Application asks:

Do you have a child support obligation in arrearage?

If you answer yes:

- a) by how many months are you in arrearage? _____ months
- b) are you currently subject to and in compliance with any repayment agreement?
- c) are you the subject of a child support related subpoena/warrant? (If you answer yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)

21. Medina answered "No" to Background Information Question Number 7 on the 2012 Application.
22. It is inferable, and hereby found as fact, that Medina did not disclose his misdemeanor criminal history and his felony conviction for possession of a controlled substance on his 2016 Application in the hopes that the Director would look more favorably upon his 2016 Application and issue an insurance producer license to him.
23. It is inferable, and hereby found as fact, that Medina failed to disclose any of his criminal history – felony or misdemeanor – in his 2012 Application for a motor vehicle extended service contract producer license in the hopes that the Director would look more favorably upon his 2012 Application and issue a motor vehicle extended service contract producer license to him, which, having been misled, the Director did.³
24. It is inferable, and hereby found as fact, that Medina failed to disclose his child support obligation and arrearage in his 2012 Application for a motor vehicle extended service contract producer license in the hopes that the Director would look more favorably upon his 2012 Application and issue a motor vehicle extended service contract producer license to him, which, having been misled, the Director did.

CONCLUSIONS OF LAW

25. Section 374.210.1(1) provides:

³ On October 25, 2012, the Director issued a motor vehicle extended service contract producer license to Medina (license #8257007). That license expired on October 25, 2014.

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[.]

26. 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;

* * *

(6) Having been convicted of a felony or crime involving moral turpitude;

* * *

(13) Failing to comply with an administrative or court order imposing a child support obligation[.]

27. Medina may be refused an insurance producer license under § 375.141.1(1) because he intentionally provided materially misleading or incomplete information in the 2016 Application when he failed to disclose the full extent of his criminal convictions, including his misdemeanor convictions and his felony conviction for possession of a controlled substance. *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 03CR129447; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 0611-CR03543; and *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0511-CR05349.

28. Medina may be refused an insurance producer license under § 375.141.1(1) because he intentionally provided materially misleading or incomplete information in the 2012 Application when he failed to disclose his any of his misdemeanor and felony criminal history. *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 03CR129447; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 0611-CR03543; and *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0511-CR05349.
29. Medina may be refused an insurance producer license under § 375.141.1(1) because he intentionally provided materially misleading or incomplete information in the 2012 Application when he failed to disclose his child support obligation and arrearage. *County of Ventura v. John Frederick Medina*, County of Ventura, California, Superior Ct., Case No. D304495.
30. Each time Medina intentionally provided materially misleading or incomplete information under § 375.141.1(1) constitutes a separate and sufficient ground for the Director to refuse to issue Medina an insurance producer license.
31. Medina may also be refused an insurance producer license under § 375.141.1(2) for violating § 374.210.1(1) when he knowingly made false statements under oath on his 2012 Application. When Medina applied for a motor vehicle extended service contract producer license, he was proceeding under Chapter 385, and he submitted his application to the Director after he signed it under oath before a notary. Medina's "No" answers to Background Question Number 1 and Background Question Number 7 on the 2012 Application were manifestly and knowingly false, because in his 2016 Application, Medina disclosed two felony convictions and a child support obligation and arrearage, both of which pre-dated his 2012 Application. Since Medina knew about his felony convictions and child support obligation and arrearage to report them in his 2016 Application, he knowingly made or caused to be made false statements upon oath or affirmation on his 2012 Application when he failed to report them.
32. Medina 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 by failing to disclose his complete criminal history in his 2016 Application. Medina disclosed felony convictions for distribution of a controlled substance and possession of a controlled substance with intent to distribute, but did not disclose his felony conviction for possession of a controlled substance. Further, Medina amended his answer to Background Question Number 1a on the 2016 Application, and denied having any misdemeanor convictions when, in fact, he has several.

State v. John Frederick Medina, St. Charles Co. Cir. Ct., Case No. 0511-CR05349-01; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 03CR129447; and *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 0611-CR03543.

33. Medina 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 by failing to disclose his criminal history and his child support obligation and arrearage in the 2012 Application. *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 03CR129447; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 0611-CR03543; *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0511-CR05349; and *County of Ventura v. John Frederick Medina*, County of Ventura, California, Superior Ct., Case No. D304495.
34. Each time Medina attempted to obtain a license through material misrepresentation or fraud under § 375.141.1(3) constitutes a separate and sufficient ground for the Director to refuse to issue Medina an insurance producer license.
35. Medina may also be refused an insurance producer license under § 375.141.1(6) because he has been convicted of three felonies. Medina was convicted of distribution of a controlled substance and possession with intent to distribute in *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01, and he was convicted of felony possession of a controlled substance in *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0511-CR05349-01.
36. Each felony conviction constitutes a separate and sufficient ground for the Director to refuse to issue Medina an insurance producer license under § 375.141.1(6).
37. Medina may also be refused an insurance producer license under § 375.141.1(6) because he has been convicted of four crimes involving moral turpitude. Medina was convicted of felony distribution of a controlled substance, felony possession with intent to distribute, felony possession of a controlled substance, and misdemeanor unlawful use of drug paraphernalia. *State v. John Frederick Medina*, St. Charles Co. Cir. Ct., Case No. 0811-CR02503-01; *State v. John Frederick Medina*, St. Charles Co. Cit. Ct., Case No. 0511-CR05349-01; *State v. John Frederick Medina*, St. Charles Co. Assoc. Cir. Ct., Case No. 0611-CR03543.

38. Each conviction for a crime involving moral turpitude constitutes a separate and sufficient ground for the Director to refuse to issue Medina an insurance producer license under § 375.141.1(6).
39. Medina may also be refused an insurance producer license under § 375.141.1(13) because he has failed to comply with an administrative or court order imposing a child support obligation. Medina owes \$5,636.21 in principal and interest in child support arrearages. *County of Ventura v. John Frederick Medina*, County of Ventura, California Superior Ct., Case No. D304495.
40. The above described instances are grounds upon which the Director may refuse to issue Medina an individual resident insurance producer license. Medina failed to disclose his complete criminal history on his 2016 Application and he did not disclose any of his convictions on his 2012 Application for a motor vehicle extended service contract producer license. Medina's criminal convictions include three felony convictions, for possession of a controlled substance, possession with intent to deliver a controlled substance, and distribution of a controlled substance. These felony convictions relate to drugs as does Medina's conviction of the Class A Misdemeanor of unlawful possession of drug paraphernalia; as such, all of those convictions involve moral turpitude. Finally, Medina owes over \$5,000.00 in child support arrearage and Medina failed to disclose his child support obligation and his arrearage in the 2012 Application.
41. The Director has considered Medina's history and all of the circumstances surrounding Medina's 2016 Application. Issuing an insurance producer license to Medina would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue Medina an insurance producer license.
42. This Order is in the public interest.

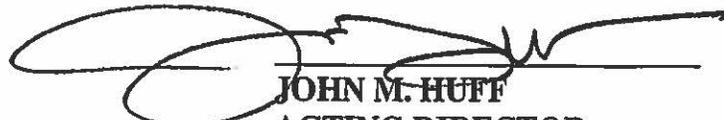
ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license Application of **John Frederick Medina** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 31ST DAY OF JANUARY, 2017.




JOHN M. HUFF
ACTING 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.

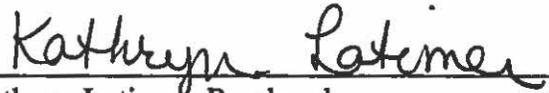
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2017, 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:

John Frederick Medina
3 Eagle Chase Ct.
St. Peters, Missouri 63376

Tracking No. 1Z0R15W84299311288



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Missouri Department of Insurance, Financial
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301 West High Street, Room 530
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, certified mail, with signature required, at the following address:

John Frederick Medina
3 Eagle Chase Ct.
St. Peters, Missouri 63376

Certified No. 7013 2250 0000 4609 6678



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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of February, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, with signature required, at the following address:

John Frederick Medina
3 Eagle Chase Ct.
St. Peters, Missouri 63376



Kathryn Latimer, Paralegal
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