



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:)

Aaron Kyle Loudermill,)
Applicant.)

Case No. 11-1014739C)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On June 25th, 2012, Carolyn H. Kerr, Legal Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Aaron Kyle Loudermill. 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. On or about March 1, 2011, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Loudermill's Uniform Application for Individual Producer License / Registration ("Application").
2. In his Application, Loudermill listed his residential and mailing address as 1436 W. Madison St., Springfield, Missouri 65806. No business address was listed.
3. In completing the Application, Loudermill attested under penalty of perjury to the truthfulness and completeness of the information he provided in the Application, including his answers to the questions in the section relating to the applicant's criminal history ("Background Questions").
4. In the section of the Application headed "Background Questions," Background Question No. 1 asks, in part: "Have you ever been convicted of a crime, had a judgment withheld 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."
5. Loudermill answered "Yes" to Background Question No. 1.
6. With his Application, Loudermill provided a letter explaining "the felony charges [he] received in 2008."
7. On or about May 19, 2000, the Prosecuting Attorney of Greene County, Missouri,

filed a one count Misdemeanor Information against Loudermill alleging that Loudermill “committed the class A misdemeanor of assault in the third degree,” in violation of § 565.070, RSMo (2000). *State of Missouri v. Aaron Kyle Loudermill*, Greene County Circuit Court, Case No. 31300CM4866.

8. On May 24, 2002, the court entered its Judgment accepting Loudermill’s “plea of guilty to the charge of 3rd Assault.” The court sentenced Loudemill to 30 days in the Greene County Jail, but suspended the execution of Loudermill’s sentence, and placed him on unsupervised probation for two years and ordered him to serve five days in the county jail. *State v. Loudermill*, Case No. 31300CM4866.

9. On or about December 28, 2002, the Prosecuting Attorney of Greene County, Missouri filed a one count Misdemeanor Information against Loudermill alleging that Loudermill “committed the class A misdemeanor of possession of a controlled substance,” in violation of § 195.202, RSMo (2000). *State of Missouri v. Aaron Kyle Loudermill*, Greene County Circuit Court, Case No. 31302CM13278.

10. On February 21, 2003, the court entered its Judgment accepting Loudermill’s “plea of guilty to the charge of Possession Marajuana [sic] – Misdemeanor.” The court sentenced Loudermill to 30 days in the Greene County Jail, but suspended the execution of Loudermill’s sentence, placed him on unsupervised probation for two years, and ordered him to complete the “DEP program” and “perform 40 hours of community service.” *State v. Loudermill*, Case No. 31302CM13278.

11. On November 26, 2008, the Prosecuting Attorney of Greene County, Missouri, filed a two count Felony Information against Loudermill alleging that Loudermill “committed the class B felony of possession of a controlled substance with intent to distribute, deliver, or sell,” in violation of § 195.211, RSMo (Supp. 2008) and that Loudermill “committed the class D felony of resisting arrest,” in violation of § 575.150, RSMo (Supp. 2008). *State v. Aaron K. Loudermill*, Greene County Circuit Court, Case No. 08PO-CR00548-01.

12. On September 17, 2009, Loudermill entered into a Plea Bargain Stipulation, wherein he agreed to enter a plea of guilty to the “Class B Felony of Possession of a Controlled Substance w/ Intent to Distribute.” The prosecutor dismissed the resisting arrest charge. Thereafter, the court accepted Loudermill’s guilty plea, suspended the imposition of sentence, and placed Loudermill on five years’ supervised probation. It also required him to enter and successfully complete the Greene County Drug Court Program. *State v. Loudermill*, Case No. 08PO-CR00548-01.

13. On October 22, 2009, the Prosecuting Attorney of Greene County, Missouri, filed a one count Felony Information against Loudermill alleging “that [Loudermill], in violation of Section 195.202, RSMo, committed the class C felony of possession of a controlled substance, ... in that on or about August 7th, 2008, ... [Loudermill] possessed more than 35 grams of marijuana, a controlled substance, knowing of its presence and nature.” *State of Missouri v. Aaron K. Loudermill*, Greene County Circuit Court, Case No. 0931-CR04893-01.

14. On March 2, 2010, Loudermill pled guilty to the Class C Felony of Possession of a Controlled Substance. The court suspended the imposition of sentence and placed Loudermill on supervised probation for five years, with conditions, including being "ordered placed in the C.R.I.S.P. Program" (Drug Court). *State v. Loudermill*, Case No. 0931-CR04893-01.

15. Special Investigator E.J. Jackson, Consumer Affairs Division ("Division"), mailed Loudermill a letter, dated March 21, 2011, by first class mail, informing him that a background check conducted by the Division revealed two felony convictions and child support arrearage obligations. He asked Loudermill to provide certified copies of the criminal matters' final dispositions.

16. Jackson's March 21, 2011 letter was addressed to Aaron K. Loudermill at 1436 W. Madison Street, Springfield, MO 65806, the address provided by Loudermill on his Application.

17. A response to Jackson's March 21, 2011 letter was required by March 23, 2011.

18. Loudermill failed to respond at all to Jackson's March 21, 2011 letter as required by 20 CSR 100-4.100 to Division of Consumer Affairs inquiries regarding his criminal history and failed to demonstrate a reasonable justification for the delay.

19. Loudermill did not disclose the following convictions when he submitted his Application to the Department:

- a. May 24, 2002 Misdemeanor conviction for Assault in the 3rd Degree. *State v. Loudermill*, Case No. 31300CM4866; and
- b. February 21, 2003 conviction for Misdemeanor Marijuana Possession. *State v. Loudermill*, Case No. 31302CM13278;

20. Loudermill intentionally provided materially incorrect, misleading, incomplete or untrue information in his Application when he failed to include information on his Application about the charges and guilty pleas in *State v. Loudermill*, Case No. 31300CM4866 and *State v. Loudermill*, Case No. 31302CM13278.

21. Loudermill intentionally provided materially incorrect, misleading, incomplete, or untrue information on his Application for the purpose of misleading the Department into granting him an insurance producer license in Missouri.

22. Loudermill had an opportunity to provide a complete answer to Background Question # 1 of his Application when he sent his letter of explanation along with that Application, but he did not provide full disclosure of all of his criminal convictions.

23. In this case, because of Loudermill's incomplete statement that he had only been subject to one criminal action that had not resulted in a conviction, if the Investigations section of the Division of Consumer Affairs had not independently discovered that Loudermill had been convicted of two other crimes, his Application might have been approved and a license issued.

CONCLUSIONS OF LAW

35. Section 375.141 provides, in 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[.]

24. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(2) Except as required under subsection (2)(B)—

(A) 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.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

25. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

26. The principal purpose of § 375.141 RSMo is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

CAUSE FOR ORDER
REFUSING TO ISSUE INDIVIDUAL PRODUCER LICENSE

27. The Director may refuse to issue an insurance producer license to Loudermill pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading incomplete or untrue information in his Application, in that Loudermill failed to disclose the fact that he had been convicted on May 24, 2002 for Assault in the 3rd Degree (*State v. Loudermill*, Case No. 31300CM4866) and again on February 21, 2003, for possession of marijuana (*State v. Loudermill*, Case No. 31302CM13278).

28. The Director may refuse to issue an insurance producer license to Loudermill pursuant to § 375.141.1(2) for violating the insurance laws of this state, namely, 20 CSR 100-4.100, in that Loudermill failed to respond to the Division's March 21, 2011 written inquiry and gave no reason or justification for the delay.

29. The Director may refuse to issue an insurance producer license to Loudermill pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud, in that Loudermill failed to disclose his May 24, 2002 conviction for Assault in the 3rd Degree (*State v. Loudermill*, Case No. 31300CM4866) and his February 21, 2003, conviction for possession of marijuana (*State v. Loudermill*, Case No. 31302CM13278), material facts upon which the Department relies upon in determining whether or not an applicant should be granted a producer license.

30. The Director may refuse to issue an insurance producer license to Loudermill pursuant to § 375.141.1(6) because he was convicted of Assault in the Third Degree, a crime of moral turpitude.

31. Therefore, in applying his discretion, the Director has considered all of the facts and circumstances surrounding each of the enumerated disqualifying events and exercises his discretion in refusing to grant Loudermill a Missouri insurance producer license.

32. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of AARON KYLE LOUDERMILL is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 5TH DAY OF JULY, 2012.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

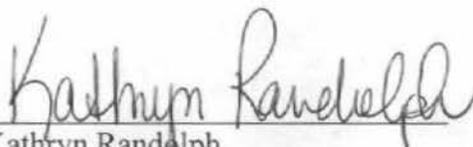
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within (30) days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 5th day of July, 2012, a copy of the foregoing notice and order was served upon Aaron Kyle Loudermill in this matter by U.S. mail, postage pre-paid and by certified mail at the following address:

Aaron Kyle Loudermill
1436 W. Madison St.
Springfield, Missouri 65806

Certified Mail # 7009 3410 0001 8931 3346



Kathryn Randolph
Missouri Department of Insurance,
Financial Institutions and Professional Registration
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