

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

MICHAEL T. CARRON,

Renewal Applicant.

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Case No. 141110726C

ORDER REFUSING TO RENEW AN INSURANCE PRODUCER LICENSE

On December 8, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew Michael T. Carron's resident insurance producer license. 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. Michael T. Carron ("Carron"), is a Missouri resident with a mailing address of 16865 Old Jamestown Road, Florissant, Missouri 63034.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Carron a resident insurance producer license (License No. 0330525) on June 8, 2004.¹
3. On or about June 1, 2012, the Department received Carron's electronic Resident License Renewal Application ("2012 Application").
4. The "Attestation" section of the 2012 Application, states, in relevant 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 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.

¹ Prior to holding a producer license, Carron held a Broker license from February 23, 1996 to February 23, 1998.

5. Carron accepted the "Attestation" section of the 2012 Application.
6. Background Question No. 1 of the 2012 Application asks, in relevant part:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime, which has not been previously reported to this insurance department?
7. Carron marked "No" to Background Question No. 1 on his 2012 Application.
8. Relying on Carron's representation on his 2012 Application, the Department renewed Carron's resident insurance producer license on June 9, 2012. Said license expired on June 8, 2014.
9. On September 8, 2014, the Department received Carron's Uniform Application for Individual Producer License Renewal/Continuation ("2014 Application").
10. Background Question No. 1.b. of the 2014 Application asks, in relevant part:

Have you been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department?
11. Carron marked "Yes" in response to Background Question No. 1.b. on his 2014 Application and included, among other documents, copies of the Sentence and Judgment and Plea of Guilty from *State v. Michael T. Carron*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02777.
12. Through its investigation, the Consumer Affairs Division ("Division") discovered the following details regarding Case No. 12SL-CR02777:
 - a. On or about February 1, 2012, Carron was charged with DWI – Alcohol – Aggravated Offender, a Class C Felony, in violation of § 577.010 RSMo.²
 - b. On or about March 26, 2012, an attorney filed an Entry of Appearance on behalf of Carron.
 - c. On March 27, 2012, the St. Louis Police Department personally served Carron with a Warrant.

² All references to criminal statutes are to those contained in the version of the Revised Statutes of Missouri under which the court rendered judgment.

- d. On May 23, 2012, the court held Carron's Arraignment.
- e. On September 27, 2012, Carron pled guilty to DWI – Alcohol – Aggravated Offender, a Class C Felony, in violation of § 577.010 RSMo.
- f. On November 14, 2013, the State filed an Amended Information. Carron withdrew his guilty plea and pled guilty to DWI – Alcohol – Persistent Offender, a Class D Felony, in violation of § 577.010 RSMo. The Amended Information charged Carron as follows:

That Michael Carron, in violation of Section 577.010, committed the class D felony of driving while intoxicated, punishable upon conviction under Sections 558.011, 560.011, and 577.023, RSMo, in that on or about February 1, 2012 at 10:23 AM, on 12319 Dorsett Road, in the County of St. Louis, State of Missouri, the defendant operated a motor vehicle while under the influence of alcohol, and on or about November 5, 2009, the defendant had been found guilty of driving while intoxicated, for events occurring on June 30, 2009, in the St. Louis County Municipal Court, in Court Case Number 090165868, and on or about December 9, 1999, the defendant had been found guilty of driving while intoxicated, for events occurring on November 30, 1998, in the Circuit Court – Municipal Division – Town & Country, in Court Case Number 970070584.

- g. The court sentenced Carron to four (4) years' incarceration, but suspended the execution of sentence and placed Carron on five (5) years' supervised probation, ordered him to complete 480 hours community service, continue attending AA Alumni meetings, and have an ignition interlock device installed in his vehicle.
- h. On April 24, 2014, Carron admitted that he violated a condition of his probation by drinking. The court ordered Carron to continue his probation and further ordered Carron to complete the 120 day Court Ordered Detention Sanction ("C.O.D.S.") program. Carron's probation is set to terminate on November 13, 2018.

State v. Michael T. Carron, St. Louis Co. Cir. Ct., Case No. 12SL-CR02777-02.

- 13. After reviewing Carron's 2014 Application and his criminal history, Special Investigator Fitzpatrick of the Division sent an inquiry letter to Carron dated September 16, 2014. Said letter, among other things, requested information regarding Carron's compliance with his probation and the modification of Carron's probation.

14. On September 20, 2014, Carron responded to Special Investigator Fitzpatrick by email and attached a letter and various court records. Carron's letter stated verbatim, in part:

I've attached a letter from The Missouri Department of Corrections dated August 20th, 2014. The letter states that I completed the WRTC program, was released and reinstated on probation on August 28th. I've attached court order and judgment dated 4/24/14. The 120 day court ordered detention sanction was added as a condition to my probation.

...

What circumstances occurred to cause the modifications of my probation? I violated my probation by drinking alcohol. My probation states that I cannot consume alcohol. I blew in my interlock device and it recorded that I had alcohol in my system. I couldn't drive and I did report it to my probation officer at that time. The St. Louis County Judge Wallace ordered that I serve 4 months under a Court Order Detention Sanction. I completed treatment up in St. Joseph Diagnostics Correctional Facility. Judge Wallace granted me a continuance of my probation once the C.O.D.S. was finished.

15. On September 30, 2014, Special Investigator Fitzpatrick sent an email to Carron asking, in relevant part: "When reviewing the documents provided for case number 12CLCR02777, I noticed you were charged with this offense on February 1, 2012.... Why was this charge for case number 12CLCR02777 not reported on your license renewal application submitted June 1, 2012?"
16. On September 30, 2014, Carron responded to Special Investigator Fitzpatrick's email and stated, in part: "I'll have to go back and look. The only thing I can think of is that I thought the question excluded driving under the influence offenses."
17. On October 1, 2014, Carron further responded to Special Investigator Fitzpatrick's email and stated verbatim:

The only thing I can think of is that it took months to determine what I was charged with. I didn't actually go to court until September of 2012. I plead guilty but the charge was suspended pending completion of the St. Louis County DWI treatment program. Once completed in November of 2013, the charge was reduced. I never saw any paperwork on any charges for quite sometime because the arresting municipality of Maryland Heights, sent it to St. Louis County to make any determinations/charges. As I mentioned before, there was no reason for me to try to conceal anything whatsoever. Is my renewal going to be granted? Thanks and have a good day!

18. Carron's explanation regarding his failure to disclose the felony charges on his 2012 Application is not credible. Background Question No. 1 of the 2012 Application clearly asked Carron if he was "currently charged with committing a crime[.]" Even assuming he did not know when he submitted his 2012 Application that he would plead guilty to the felony, the court records establish that Carron had an attorney representing him, the police department had personally served him with a warrant, and an Arraignment had been held all before Carron submitted his 2012 Application.
19. It is inferable that Carron failed to disclose his pending felony charge on his 2012 Application in order to misrepresent to the Director that he had no criminal history, and accordingly, in order to improve the chances that the Director would approve his 2012 Application.
20. In addition to Carron's failure to disclose his pending felony charge on his 2012 Application, Carron also failed to report the criminal prosecution for a felony that was pending against him to the Director within thirty days of the initial pretrial hearing date. In fact, Carron only finally reported the criminal proceeding and conviction on his September 8, 2014 Application, almost two years after pleading guilty to DWI – Alcohol – Aggravated Offender, a Class C Felony, and almost a year after withdrawing that plea in order to plead guilty to DWI – Alcohol – Persistent Offender, a Class D Felony.

CONCLUSIONS OF LAW

21. Section 375.141 RSMo (Supp. 2014)³ 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 or of another insurance commissioner in any other state;
 - (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud; [or]

* * *

³ All statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2014 Supplement unless otherwise noted.

- (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 documents.
22. 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. E.D. 1984).
23. A crime involving “moral turpitude” is a crime involving “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything ‘done contrary to justice, honesty, modesty, and good morals’.” *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985); *see also, Brehe v. Mo. Dep’t of Elementary & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007).
24. Renewal of Carron’s resident insurance producer license may be refused pursuant to § 375.141.1(1) because Carron intentionally provided materially incorrect, misleading, incomplete, or untrue information in his 2012 Application when he failed to disclose his pending felony charge. *State v. Michael T. Carron*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02777-02.
25. Renewal of Carron’s resident insurance producer license may be refused pursuant to § 375.141.1(3) because Carron obtained a license through material misrepresentation or fraud when he failed to disclose his pending felony charge in his 2012 Application. *State v. Michael T. Carron*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02777-02.
26. Renewal of Carron’s resident insurance producer license may be refused pursuant to § 375.141.1(6) because Carron has been convicted of a felony:
- a. *State v. Michael T. Carron*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02777-02 (DWI – Alcohol – Persistent Offender, a Class D Felony, in violation of § 577.010 RSMo).
27. Renewal of Carron’s resident insurance producer license may be refused pursuant to § 375.141.1(6) because Carron has been convicted of a crime involving moral turpitude:

- a. *State v. Michael T. Carron*, St. Louis Co. Cir. Ct., Case No. 12SL-CR02777-02 (DWI – Alcohol – Persistent Offender, a Class D Felony, in violation of § 577.010 RSMo).
 - b. To be charged and convicted as a “Persistent Offender,” the person “pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses.” Section 577.023.1(5).
 - c. Carron pled to guilty to DWI – Persistent Offender, a Class D Felony, based on the Amended Information filed November 14, 2013, which includes the following intoxication-related traffic offenses:
 - (1) On or about November 5, 2009, a court found Carron guilty of driving while intoxicated on June 30, 2009; and
 - (2) On or about December 9, 1999, a court found Carron guilty of driving while intoxicated on November 30, 1998.
 - d. “[D]riving while intoxicated is a Category 1 crime that necessarily involves moral turpitude due to its high risk of injury or death to innocent bystanders.” *State Bd. of Nursing v. Tammy Wilcox*, No. 09-0645 BN (Mo. Admin. Hrg. Comm’n March 19, 2013) (citing *Brehe v. Missouri Dep’t of Elem. & Secondary Educ.*, 217 S.W. 3d 720 (Mo. App. W.D. 2007)).
 - e. “[R]epeated alcohol-impaired driving violations constitute moral turpitude.” *Gabriel Monroe v. Office of Tattooing, Body Piercing and Branding*, No. 09-0927TP (Mo. Admin. Hrg. Comm’n June 3, 2010) (citing *In re Disciplinary Proceedings Against Brandt*, 766 N.W.2d 194, 202 (Wis. 2009)).
 - f. “[F]elony DWI, particularly with the aggravating circumstances of a ‘persistent offender,’ is a category 1 crime. [The licensee’s] willful choice to repeatedly defy the law violated his duty to society and unnecessarily exposed the public to great risk of harm.” *Director v. Michael Dean McLain*, No. 14-0083 DI (Mo. Admin. Hrg. Comm’n June 5, 2014).
28. Renewal of Carron’s resident insurance producer license may be refused pursuant to § 375.141.1(2) because Carron violated an insurance law of the Director, namely § 375.141.7, when he failed to report the criminal prosecution for a felony that was pending against him to the Director within thirty days of the initial pretrial hearing date. Carron did not report his criminal prosecution to the Director until his most recent renewal application, which is almost two full years after Carron entered his first guilty plea to a Class C Felony in Case No. 12SL-CR02777-02, and almost a year after withdrawing that plea in order to plead guilty to a Class D Felony.

29. The Director has considered Carron's history and all of the circumstances surrounding Carron's Application. Renewing Carron's resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to renew Carron's resident insurance producer license.
30. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license renewal application of **Michael T. Carron** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 9th DAY OF DECEMBER, 2014.




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.

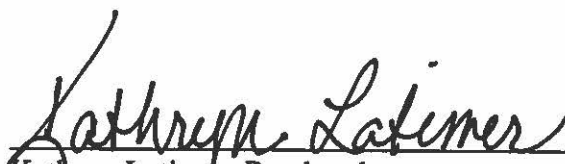
CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2014 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, No. 1Z0R15W84296035538, at the following address:

Michael T. Carron
16865 Old Jamestown Road
Florissant, Missouri 63034

And email at the following address:

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