



FINAL ORDER
EFFECTIVE
03-02-2018

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:

PHILIP ROBERT MERCADO JR.,
Applicant.

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Case No. 170705317C

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On November 29, 2017, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a nonresident insurance producer license to Philip Robert Mercado Jr. After reviewing the Petition, 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. Philip Robert Mercado Jr. ("Mercado") is a Texas resident with a business, residential, and mailing address of 1250 River Rock Drive, Missouri City, Texas 77489-4121.
2. On January 12, 2017, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Mercado's electronic nonresident insurance producer license application ("Application").
3. Mercado answered "Yes" to Background Question 1A of the Application which asked, in relevant part: "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?"
4. Mercado answered "Yes" to Background Question 1B of the Application which asked, 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?"
5. As further instructed by the Application, Mercado provided a letter of explanation and court records admitting the following convictions:
 - a. On or about August 3, 1999, Mercado pled guilty to, and was convicted of, Possession of Marijuana, a Class B Misdemeanor in violation of Texas law. The court sentenced him to forty-five days' incarceration. *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 992416401010.

- b. Also on or about August 3, 1999 but in a different case, Mercado pled guilty to, and was convicted of, Possession of Marijuana, a Class B Misdemeanor in violation of Texas law. The court sentenced him to forty-five days' incarceration. *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 993153201010.
- c. On or about May 9, 2002, Mercado pled guilty to, and was convicted of, Assault Causing Bodily Injury, a Class A Misdemeanor in violation of Texas law. The court sentenced him to sixty days' incarceration. *Texas v. Philip Robert Mercado Jr.*, Harris Co. Dist. Ct., Cause No. 110306401010.
- d. On or about May 9, 2005, Mercado pled guilty to, and was convicted of, Unlawful Labeling, a State Jail Felony in violation of Texas law. The court sentenced him to one year of incarceration. *Texas v. Philip Robert Mercado Jr.*, Harris Co. Dist. Ct., Cause No. 102613501010.
- e. On or about May 21, 2007, Mercado pled guilty to, and was convicted of, Possession of Marijuana, a Class B Misdemeanor in violation of Texas law. The court sentenced him to twenty days' incarceration. *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 143583001010.
- f. Also on or about May 21, 2007 but in a different case, Mercado pled guilty to, and was convicted of, Possession of Marijuana, a Class B Misdemeanor in violation of Texas law. The court sentenced him to twenty days' incarceration. *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 144986701010.
- g. On or about May 16, 2012, Mercado pled guilty to, and was convicted of, Possession of Marijuana, a State Jail Felony in violation of TEX. HEALTH & SAFETY CODE § 481.121(b)(3).¹ The court sentenced him to seventy days' incarceration. *Texas v. Philip Robert Mercado Jr.*, Brazoria Co. Dist. Ct., Cause No. 67243.
- h. Also on or about May 16, 2012 but in a different case, Mercado pled guilty to, and was convicted of, Possession of a Controlled Substance, a Second Degree Felony in violation of § 481.116(d). The court sentenced him to eight years' incarceration, but suspended execution of the sentence and ordered Mercado to complete six years' supervised probation. *Texas v. Philip Robert Mercado Jr.*, Brazoria Co. Dist. Ct., Cause No. 67244.

CONCLUSIONS OF LAW

6. Section 375.141.1, RSMo² provides, in relevant part:

The director may suspend, revoke, refuse to issue or refuse to renew an

¹ All criminal statutory references are to those contained in the version of the Texas Health & Safety Code pursuant to which each judgment was rendered.

² All civil statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes.

insurance producer license for any one or more of the following causes:

* * *

- (6) Having been convicted of a felony or crime involving moral turpitude[.]
7. "Moral turpitude has been defined as 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) (internal citations and quotations omitted).
8. "Courts invariably find moral turpitude in the violation of narcotic laws." *Id.* (internal citations omitted).
9. The Director may refuse to issue Mercado a nonresident insurance producer license pursuant to § 375.141.1(6) because he has been convicted of three felonies, specifically:
 - a. Unlawful Labeling, *Texas v. Philip Robert Mercado Jr.*, Harris Co. Dist. Ct., Cause No. 102613501010;
 - b. Possession of Marijuana, *Texas v. Philip Robert Mercado Jr.*, Brazoria Co. Dist. Ct., Cause No. 67243; and
 - c. Possession of a Controlled Substance, *Texas v. Philip Robert Mercado Jr.*, Brazoria Co. Dist. Ct., Cause No. 67244.
10. The Director may refuse to issue Mercado a nonresident insurance producer license pursuant to § 375.141.1(6) because he has been convicted of eight crimes involving moral turpitude, specifically:
 - a. Possession of Marijuana, *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 992416401010;
 - b. Possession of Marijuana, *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 993153201010;
 - c. Assault Causing Bodily Injury, *Texas v. Philip Robert Mercado Jr.*, Harris Co. Dist. Ct., Cause No. 110306401010;
 - d. Possession of Marijuana, *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 143583001010;
 - e. Possession of Marijuana, *Texas v. Philip Robert Mercado*, Harris Co. Dist. Ct., Cause No. 144986701010;
 - f. Possession of Marijuana, *Texas v. Philip Robert Mercado Jr.*, Brazoria Co. Dist. Ct., Cause No. 67243; and

g. Possession of a Controlled Substance, *Texas v. Philip Robert Mercado Jr.*, Brazoria Co. Dist. Ct., Cause No. 67244.

11. Each of Mercado's convictions for a felony or crime involving moral turpitude is a separate and sufficient cause for refusal pursuant to § 375.141.1(6).
12. The Director has considered Mercado's history and all of the circumstances surrounding Mercado's Application. Issuing a nonresident insurance producer license to Mercado would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue a nonresident insurance producer license to Mercado.
13. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the nonresident insurance producer license application of **Philip Robert Mercado Jr.** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 09th DAY OF January, 2018.



Chlora Lindley-Myers

CHLORA LINDLEY-MYERS, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

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.

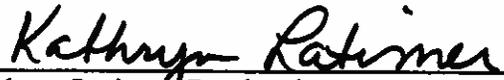
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2018, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by UPS, signature required service, at the following address:

Philip Robert Mercado Jr.
1250 River Rock Drive
Missouri City, Texas 77489-4121

No. 1Z0R15W84297323877



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2018, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by USPS, certified mail, at the following address:

Philip Robert Mercado Jr.
1250 River Rock Drive
Missouri City, Texas 77489-4121

Certified No. 7016 0340 0001 1319 8491



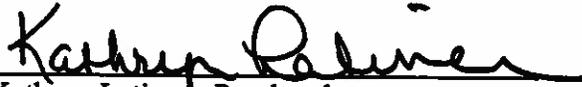
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Facsimile: (573) 526-5492
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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January, 2018, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by UPS, signature required service, at the following address:

Philip Robert Mercado Jr.
7911 Fondren Rd.
Houston, TX 77074

No. 1Z0R15W84298356018



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