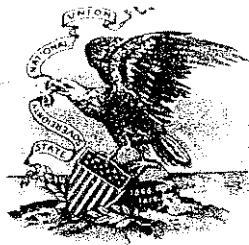


7-22

STATE OF ILLINOIS



Department of Financial and Professional Regulation Division of Insurance

IN THE MATTER OF THE
DENIAL OF THE LICENSING
AUTHORITY OF:

HEARING NO. 05-HR-0581

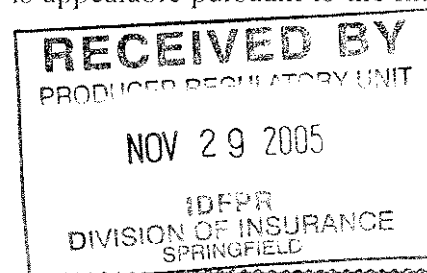
Theodis Houston
6205 S. Ingleside Street Apt. 2A
Chicago, Illinois 60637

ORDER

I, Michael T. McRaith, Director of the Illinois Department of Financial and Professional Regulation, Division of Insurance hereby certify that I have read the entire Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Morton P. Kamins, appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a Hearing in the above-captioned matter. I have carefully considered and reviewed the entire Record of the Hearing and the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, attached hereto and made a part hereof.

I, Michael T. McRaith, being duly advised in the premises, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Article XXIV of the Illinois Insurance Code (215 ILCS 5/401 et. seq.) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et. seq.).

This Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 et seq.). Further this Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).



NOW IT IS THEREFORE ORDERED THAT:

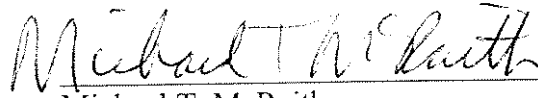
- 1) The request by the Respondent Theodis Houston, for an Illinois Producer's License is denied; and
- 2) The Respondent, Theodis Houston, pay as costs of this proceeding within 35 days of the date of this Order, the sum of \$349.00, directly to the Illinois Department of Financial and Professional Regulation, Division of Insurance, Tax and Fiscal Services Section, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION of the
State of Illinois; DEAN MARTINEZ,
ACTING SECRETARY

DIVISION OF INSURANCE

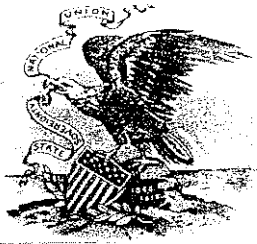
Date: _____

11/21/05



Michael T. McRaith
Director
Division of Insurance

STATE OF ILLINOIS



Department of Financial and Professional Regulation Division of Insurance

IN THE MATTER OF THE
DENIAL OF THE LICENSING
AUTHORITY OF:

HEARING NO. 05-HR-0581

Theodis Houston
6205 S. Ingleside Street Apt. 2A
Chicago, Illinois 60637

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING OFFICER

Now comes Morton P. Kamins, Hearing Officer, in the above captioned matter and hereby offers his Findings of Fact, Conclusions of Law and Recommendations to the Director of Insurance.

FINDINGS OF FACT

- 1) On May 31, 2005, the Director of the Illinois Division of Insurance, Michael T. McRaith (Director) issued a Letter of Denial denying the application for an Illinois Producer's License by Theodis Houston (Respondent) (Hearing Officer Exhibit # 2A).
- 2) On June 24, 2005 the Illinois Division of Insurance (Division) received a Request for Hearing on the denial from the Respondent (Hearing Officer Exhibit # 2B).
- 3) On August 1, 2005 the Director issued a Notice of Hearing pursuant to the Respondent's Request for Hearing, setting a hearing date of August 31, 2005, at the Division's Offices in Chicago, Illinois (Hearing Officer Exhibit # 3).

- 4) On August 1, 2005 the Director appointed Morton P. Kamins as Hearing Officer in this matter (Hearing Officer Exhibit # 1).
- 5) The Hearing in this matter was convened on August 31, 2005 at 10:00 a.m., at the Division's Offices in Chicago, Illinois at which time were present Morton P. Kamins, Hearing Officer; Theodis Houston, Respondent; Glen R. Gasiorek, on behalf of the Division and Richard Nitka an employee of the Division.
- 6) The purpose of this Hearing was to allow the Respondent and the Division to appear and present evidence concerning the Division's Letter of Denial denying the Respondent's application for licensing as an insurance producer in the State of Illinois.
- 7) Glen R. Gasiorek, attorney for the Illinois Division of Insurance, entered into the Record certified copies of the Respondent's Arrest Report, 13 Count Indictment of a Felony, and Order of Sentencing in Case # 87-CR-8315 filed in the Circuit Court of Cook County. This Group Exhibit showed that the Respondent on August 10, 1990 was convicted of a felony, aggravated kidnapping and was sentenced to six years in the Illinois Department of Corrections. Mr. Gasiorek further added that the Respondent's felony conviction was the basis for the Director denying the Respondent's request for an Illinois Producer's License. (Division's Group Exhibit # 1).
- 8) The Division of Insurance rested.
- 9) The Respondent, Theodis Houston, testified on his own behalf, in a narrative form in this matter as follows (R. 10-15):
 - a) He testified the felony he committed took place while he was a youth living in the inner city of Chicago and that he was deeply sorry that it ever happened;
 - b) He testified he has been offered an opportunity to become an insurance producer and feels he can faithfully serve the best interest of the public in this profession; and
 - c) He testified that his prospective employer was on his way down to testify on his behalf at the hearing, but due to a serious traffic accident on the highway, he was not able to get through the traffic and attend.

- 10) The Hearing Officer noted on the Record that prior to his leaving home he saw on the news the serious traffic problems caused by the accident that the Respondent referred to.
- 11) The Hearing Officer continued the matter until September 14, 2005 to allow the Respondent time to bring in his witness, Kevin Thornton, Jr., of the Thornton Insurance Agency to testify on in his behalf and to add anything further on his behalf into the Record.
- 12) The Hearing re-convened on September 14, 2005 at 10:00 a.m., at the Division's Offices in Chicago, Illinois at which time all parties to the August 31, 2005 hearing were present and also Kevin Thornton Jr., witness for the Respondent.
- 13) The Respondent, Theodis Houston, resumed testifying on his own behalf, in a narrative form in the matter as follows (R. 23-30):
 - a) He testified he had six letters of recommendations as to his character from various individuals and community groups he wished entered into the Record for the Director's consideration (Respondent's Exhibits # 1 thru # 6); and
 - b) He asked that Kevin B. Thornton Jr. of the Thornton Insurance Agency letter be added to the Record and that Mr. Thornton be allowed to testify on his behalf (Respondent Exhibit # 7).
- 14) Kevin B. Thornton, Jr., after being first duly sworn on oath, was examined by the Respondent in matter as follows (R 30-36):
 - a) He testified he had his own agency with Farmers Insurance Group. He further testified he has known the Respondent well over ten years and that the Respondent is a model citizen;
 - b) He has known the Respondent to be hard working and valuable member of his community;
 - c) He testified that he knew of the Respondent's conviction in 1990, but believed that the Respondent paid for his mistake and now was a productive member of society; and
 - d) He testified that he has encouraged the Respondent to join his agency and believes the Respondent to have the character and integrity to be an exemplary insurance producer if allowed to be licensed.

- 15) Examination of Mr. Thornton by the Hearing Officer (R. 37-39):
- a) He testified if the Respondent was licensed he would be an agency producer under his direction, selling property, casualty, life and health products for his agency; and
 - b) He testified that the mistake made by the Respondent occurred years ago and that he found the Respondent to be a good citizen and completely rehabilitated.
- 16) Examination of the Respondent by the Hearing Officer (R. 39-49):
- a) He is married and has three children and has not been employed since June 2004;
 - b) He had previously been employed for seven years as a housekeeping manager for Aramark Corporation. His duties primarily dealt with training and scheduling daily house keeping staff for hospitals;
 - c) The company who originally hired him was Service Master and that company was recently bought out by Aramark, his present employer;
 - d) He testified that he was laid off of work by Aramark when they discovered his prior felony conviction. It was Aramark's policy to not allow any of its employee's to work at a hospital if they had a felony record;
 - e) He testified that when he was originally hired by Service Master he stated his felony conviction on their employment application and was hired nevertheless. The company policy of not allowing convicted felons to work in hospitals only came when Service Master was bought out by Aramark Corporation;
 - f) He testified that he was 19 years old and a college student when the criminal incident occurred which he is deeply sorry for;
 - g) He testified that he satisfied his terms of probation and has had no problems with the law since that earlier incident which occurred in June of 1987; and
 - h) He testified he has been involved with his church and community groups, specifically in their youth programs the past 10 years. He

feels that he has an obligation to the youths of the inner-city to tell his story and to be a positive example to them.

- 17) Marzullo Reporting Services transcribed the testimony taken in this matter and charged the Division \$349.00 for the court reporter's attendance and the transcript of the proceedings.

CONCLUSIONS OF LAW

Based upon the above stated Findings of Fact and the entire Record in this matter the Hearing Officer offers the following Conclusions of Law to the Director of Insurance.

- 1) Morton P. Kamins, was duly appointed as Hearing Officer in this matter pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402).
- 2) The Director of insurance has jurisdiction over the subject matter and the parties to this proceeding pursuant to Sections 401, 402, 403, 500-40 and 500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403, 5/400-40 and 5/500-70).
- 3) The purpose of this proceeding is to determine whether the Letter of Denial, previously issued by the Director in this matter, denying the Respondent's Application of Licensing as an Illinois Insurance Producer, should stand.

In its Letter of Denial and Notice of Hearing in this matter, the Division alleges that the Respondent had been convicted of a felony and said conviction is grounds for denial of his license application.

Section 5/500-70(6) provides, inter alia:

- (a) the Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:
 - (6) having been convicted of a felony;

The Illinois Administrative Code, 50 Ill. Adm. Code §2403 establishes standards for review of producer license or license applications with respect to those producers (and applicants) who have been convicted of a felony. Section 2403 provides that a number of factors are to be considered by the Director in determining the appropriate action. The standards of Section 2403.30 provide:

Review Standards

Section 500-70 of the Illinois Insurance Code allows the Director to place on probation, suspend, revoke, or refuse to issue an insurance producer's license, levy a civil penalty, or take any combination of the preceding actions when the producer has been convicted of a felony [215 ILCS 5/500-70(a)(6)]. When so reviewing producer licenses or license applications involving producers who have been convicted of a felony, the Director shall consider the following factors in determining the appropriate action:

- a) Nature and Severity of the Criminal Activity.
- b) Time Elapsed Since the Prior Criminal Conduct.
- c) Absence of Additional Criminal Conduct Since the Reported Felony.
- d) Multiple Offenses or Pattern of Criminal Conduct.
- e) Restitution.
- f) Proper Disclosure.
- g) Successful Completion of Sentence and Probationary Period.
- h) Rehabilitation.
- i) Nature of Work Performed by the Applicant or Producer.
- j) Any Other Facts of Circumstances Deemed Relevant by the Director.

The evidence presented in this matter indicates the Respondent was convicted of committing a Forcible Felony of Aggravated Kidnapping in August of 1990. The incident relating to this conviction occurred in June of 1987 in Chicago, Illinois.

The Respondent, in his statement for the Record, admitted his wrongdoing and appeared contrite. He offered into the Record seven exhibits from community groups and individuals attesting to his character and integrity. The Respondent's prospective employer, Kevin B. Thornton Jr., testified on his behalf as to the Respondent's character and integrity.

Section 50 Ill. Adm. Code 2403, Producer Felony Review, lists the standards that the Director shall consider when determining a licensing penalty for a producer who has been convicted of a felony. The Hearing Officer is troubled over one of these factors, that being the "Nature and Severity of the Criminal Action." The Respondent was charged with the offense of Aggravated Kidnapping in June of 1987. The individual who the Respondent kidnapped subsequently died because of this occurrence. The evidence shows that the Respondent was initially charged with Murder and Aggravated Kidnapping and that the murder charge was later dropped by the State of Illinois. The

nature of this prior criminal activity is very troubling to the Hearing Officer. The individual who died due to this incident was beaten to death by a baseball bat.

In reviewing the facts of this case, the Hearing Officer concludes that although the Respondent has shown that he has become a fine citizen of his community and that the occurrence happened some eighteen years ago, the Nature and Severity of the Criminal Activity cannot be overcome. The Hearing Officer concludes that the Director properly and correctly denied the Respondent's license request pursuant to Section 500-70(a)(6) of the Illinois Insurance Code.

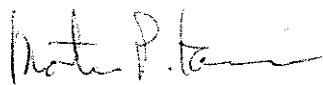
RECOMMENDATIONS

Based upon the above-stated Findings of Fact, Conclusions of Law and the entire Record in this matter, the Hearing Officer offers the following Recommendations to the Director of Insurance.

- 1) That the Director's Letter of Denial be upheld; and
- 2) That the Respondent be assessed the costs of the proceedings in the amount of the court reporting fees incurred by the Division.

Respectfully submitted,

Date: 11/2/05



Morton P. Kamins
Hearing Officer