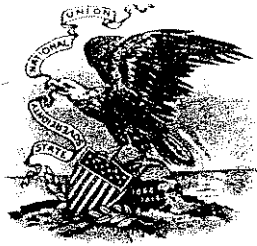


STATE OF ILLINOIS



Department of Financial and Professional Regulation Division of Insurance

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

Keith L. Turpin
239 Hackberry Drive
Streamwood, IL 60107

RECEIVED BY
PRODUCER REGULATORY UNIT

DEC 05 2005

IDFPR
DIVISION OF INSURANCE
SPRINGFIELD

HEARING NO. 05-HR-0165

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, Timothy M. Cena, 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 and Article XXXI of the Illinois Insurance Code (215 ILCS 5/401 et. seq. and 490.1 et. seq.) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et. seq.).

The Parties to this proceeding may, pursuant to 50 Ill. Adm. Code 2402.280, file a Petition for a Rehearing. If such Petition is not is timely filed, this Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1 et.

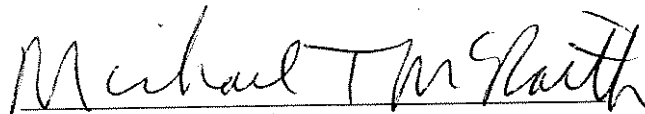
seq.). This Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 3/101- et. seq.).

NOW IT IS THEREFORE ORDERED THAT:

- 1) The Application of the Respondent, Keith L. Turpin, for licensing as an Illinois Insurance Producer is denied; and
- 2) The Respondent, Keith L. Turpin, shall pay as costs of this proceeding the sum of \$281.20, within 35 days of the date of this Order 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.
- 3) The Respondent, Keith L. Turpin shall pay as a civil penalty in this matter, pursuant to Section 500-70 (d) of the Illinois Insurance Code (215 ILCS 5/500-70)(d)), for the filing of a fraudulent insurance producer's application, the sum of \$500.00, within 35 days of the date of this Order directly to the Illinois Department of Financial and Professional Regulation, Division of Insurance, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION of the
State of Illinois;

DIVISION OF INSURANCE


Michael T. McRaith
Director

Date: 11/21/05

STATE OF ILLINOIS



Department of Financial and Professional Regulation Division of Insurance

IN THE MATTER OF THE
DENIAL OF LICENSING
AUTHORITY OF:

HEARING NO. 05-HR-0165

Keith L. Turpin
239 Hackberry Drive
Streamwood, IL 60107

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

Now comes Timothy M. Cena, Hearing Officer in the above captioned matter and hereby offers his Finding of Fact, Conclusions of Law and Recommendations to the Director of Insurance.

FINDINGS OF FACT

- 1) On January 20, 2005, Acting Illinois Director of Insurance, Deirdre K. Manna, issued a Letter of Denial denying the request for an Illinois Insurance Producer's License by Keith L. Turpin (Respondent) (Hearing Officer Exhibit 2-2).
- 2) On February 8, 2005 the Illinois Department of Insurance, now known as the Illinois Department of Financial and Professional Regulation, Division of Insurance (Division), received a Request for Hearing on the Denial from the Respondent (Hearing Officer Exhibit 2-1).
- 3) On March 7, 2005 the Director issued a Notice of Hearing, pursuant to the Respondent's Request for Hearing, setting a Hearing date and location of April 13, 2005 at the Division's Offices in Chicago, Illinois (Hearing Officer Exhibit #2).

- 4) Morton P. Kamins filed a Notice of Appearance in this matter on behalf of the Division (Hearing Officer Exhibit #2).
- 5) Timothy M. Cena was appointed as Hearing Officer in this matter by Order of the Director on March 4, 2005 (Hearing Officer Exhibit #1).
- 6) The Hearing in this matter was convened in the Division's Offices in Chicago, Illinois on April 13, 2005 at which time were present: Timothy M. Cena, Hearing Officer; Keith L. Turpin, Respondent; Morton P. Kamins, on behalf of the Department; and Richard Nitka, an employee of the Division of Insurance.
- 7) Richard Nitka, a Supervisor in the Division's Chicago Office Producer Regulatory Unit, testified on behalf of the Division as follows:
 - a) He became aware of the Respondent's file when it was assigned to the Chicago Office for investigation;
 - b) Regarding Department Group Exhibit 1, he testified that these certified documents were acquired from the Circuit Court of Cook County, Illinois County Department, State of Illinois, People of the State of Illinois vs. Keith Turpin, Case No. 00C33071501 as a part of the investigation;
 - c) The documents include a Judgment Order Allowing and Taxing Costs, Fees, Fines, Penalties and Assessment for Controlled Substance and Cannabis Violations, an Information, and Order of Sentence of Probation;
 - d) The Judgment Order filed on November 3, 2000 indicated that the Respondent was convicted of unlawful possession of cocaine;
 - e) The Order indicated that the Respondent was sentenced to 30 hours of community service, drug screenings, and two years of probation;
 - f) The witness testified that the Division received an application from the Respondent in August 2002 for an insurance producer's license;
 - g) Regarding Department Exhibit 2, he testified that the document was an application for a life insurance license, dated 8/9/2002, as submitted by the Respondent to the Division;
 - h) The application required the Respondent to answer certain questions including an inquiry about whether the applicant had

ever been convicted of a felony. The Respondent indicated that he had not been convicted of a felony;

- i) In a second application for Health Insurance, the Respondent had again indicated that he had not been convicted of a felony. This application was also dated 8/9/02.

8) The Respondent, Keith L. Turpin, testified on his own behalf, in a narrative form, in this matter as follows:

- a) When he entered false information into his insurance producer's applications, he was under the impression that his felony had been expunged;
- b) His initial drug felony had been a result of bad luck on his part and confusion with his attorney. The Respondent stated that the cocaine that was found in his possession was not his, and that he had initially wished to plead not guilty. He later agreed a plea bargain on the advice of his attorney, who suggested to him that such plea bargain would allow the felony to be expunged;
- c) The Respondent stated that he tested negative in all four of the random drug tests he was required to take. Further, he has paid all of his court ordered fees and has completed his probation requirements;
- d) The Respondent stated that he first learned that his felony had not been expunged when he applied for a securities license. Securities regulations provide that felons will not be issued a license. Securities regulators finger printed the Respondent and discovered the felony conviction during a background check;
- e) The Respondent testified that he did not want an Insurance Producer's License in order to sell insurance but, only because that it would help to clear his record for future employment endeavors;
- f) The Respondent stated that he had been previously licensed as an Insurance Producer in Illinois, but had let his license lapse.

9) On cross-examination, the Respondent testified as follows:

- a) He is currently an "unlicensed broker" at Guardian Life Insurance and Wealth Management Advocate in Oak Brook;

- b) His duties there included solicitation of clients for life and health disability insurance needs. He had been working there for about 3 years;
 - c) He also testified that his employer was aware of his license denial;
 - d) He had not written any business from the time he was denied his license and mainly focused his efforts on helping his colleagues;
 - e) He testified that he was not collecting any commission on his work since his license denial;
 - f) He stated that he was married and that his spouse also worked in the insurance industry;
 - g) He thought that his attorney had taken steps to expunge his felony conviction. His attorney had suggested to him that he take a plea bargain as opposed to pleading innocent in order that he could get his record expunged;
 - h) In August 2004, he applied for his securities license and found that his felony conviction had not been expunged;
 - i) He has been unable to speak with his attorney about the matter;
 - j) After finding out that his conviction had not been expunged, the Respondent, on his next renewal application indicated "Yes" to the question asking whether he had been convicted of a felony;
 - k) The Respondent indicated that in addition to wanting his producer's license to clear his record, he also wanted it to collect about \$2000 worth of commissions withheld to him by several companies, pending his license renewal.
- 10) McGee Court Reporting Services transcribed the testimony taken in this proceeding and charged the Division \$281.20 for the court reporter's attendance and the transcript of the proceedings. (Hearing Officer Exhibit # 3).

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.

- 1) Timothy M. Cena was duly appointed as Hearing Officer in this matter by the Director pursuant to Section 403 of the Illinois Insurance Code (215 ILCS 5/403).
- 2) The Director of Insurance has jurisdiction over the parties and the subject matter of this proceeding pursuant to Sections 401, 402, 403, 500-30, and 500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403, 5/500-30, and 5/500-70).
- 3) The purpose of this proceeding is to determine the Respondent's eligibility to hold an Illinois Insurance Producer's License and to determine whether the Director's decision to deny the Respondent's applications for a license should stand.

In its Letter of Denial the Division alleged that the Respondent had been convicted of a felony and such conviction was a basis for the denial of the Respondent's application for licensing as an Illinois Insurance Producer pursuant to Sections 500-30 and 500-70 of the Illinois Insurance Code (215 ILCS 5/500-30 and 5/500-70).

Section 500-30 of the Code provides, in part, as follows:

“(a) An individual applying for a resident insurance producer license must make application on a form specified by the Director and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Director must find that the individual:

- 1) is at least 18 years of age;
- 2) has not committed any act that is a ground for denial, suspension, or revocation set forth in Section 500-70; . . .”

Section 500-70 of the Code provides, in part as follows:

“(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, or any one or more of the following causes: . . .”

- 6) having been convicted of a felony.

The evidence produced by the Division of Insurance at this hearing indicates that the Respondent pled guilty to one felony count of possession of a controlled substance. The Respondent was sentenced to 30 hours of community service, required to do drug screenings, and two years of probation. The Respondent admitted his guilt regarding his conviction and argued that a misunderstanding

between he and his attorney regarding the expungement of his felony resulted in his incorrectly indicating that he had not been convicted of a felony on his insurance producer applications.

Division Regulation 2403, Producer Felony Review (50 Ill. Adm. Code 2403) provides standards for the Director's review in cases involving insurance producer felony convictions. The standards for review contained in Section 2403.30 are as follows:

Section 2403.30(a)-Nature and Severity of the Criminal Activity

While the Hearing Officer considers all felony convictions to be serious, crimes involving theft, financial irregularities or violation of fiduciary duties are of particular concern in the licensing of insurance producers. The Respondent was convicted of the possession of a control substance. The Hearing Officer considers the nature of the Respondent's conviction to be less severe than a crime involving theft financial irregularities or a breach of fiduciary duties.

Section 2403.30(b)-Elapsed Time Since the Prior Criminal Conduct

The Respondent's criminal activity took place in 2000. A significant amount of time has passed since his criminal conviction.

Section 2403.30(c)-Absence of Additional Criminal Conduct Since Reported Felony

The Record in this matter indicates that the Respondent has not been involved in any criminal activity since his conviction and has remained drug free for the duration of his probation.

Section 2403.30(d)-Multiple Offenses or Pattern of Criminal Conduct

There is no evidence in the Record to indicate that the Respondent's conviction was a part of a pattern of criminal activity.

Section 2403.30(e)-Restitution

The Respondent has paid all of his court ordered fines and fees.

Section 2403.30(f)-Proper Disclosure

The Respondent's failure to provide proper disclosure of his felony conviction in his applications for insurance licenses in 2002 is troubling. As indicated above, the Respondent stated that he did not realize that his conviction had not been expunged and that he only became aware of that fact when applying for a securities license. The Hearing Officer concludes that the Respondent's explanation is indicative of the Respondent's poor judgment and general incompetency. Obviously, the Respondent was

put on notice of the importance of the issue of felony convictions by the fact that both the securities and insurance regulators asked the question on their respective applications. For the Respondent to indicate that he had not been convicted of a felony, when in fact he had, indicates a lack of the degree of care that the Hearing Officer believes that the Respondent should have exercised prior to completing both the securities and insurance license applications. This lack of care also does not bode well for the Respondent's ability to properly guide unsophisticated insurance purchasers through a complex insurance transaction. It is noted, however, that in applying for his licensing renewal, the Respondent did in fact indicate the correct information. While this does not excuse the Respondent's behavior, it does mitigate his actions.

Section 2403.30(g)-Successful Completion of Sentence and Probationary Period

The Respondent has successfully completed his sentence, paid all of his fines, and has completed his probation.

Section 2403.30(h)-Rehabilitation

The issue of felony review and the rehabilitation from a felony in the context of insurance producer licensing in Illinois has been ordered by the Courts in the case of Medley v. Department of Insurance, 223 Ill. App. 3d. 813, the Court stated that the type of rehabilitation required here is such that the licensee can be trusted to engage in selling and securing of insurance policies which may be intricate and involve insureds or prospective insureds who lack sophistication in such matter." The court further stated that the Respondent seeking rehabilitation should appear contrite in nature and should indicate the ways he had changed since the conviction.

The Hearing Officer concludes that the Respondent did not show adequate rehabilitation to warrant the issuance of a license. He did not appear contrite and he did not accept responsibility for his crime. The Respondent stated that the cocaine in his possession was not his and that he pled guilty only because his lawyer told him that he would be able to get the conviction expunged. Further, the Respondent did not testify as to how he changed since his conviction.

Section 2403.30(i)-Nature of the Work Performed by the Applicant

If granted an insurance license the Respondent will have the legal authority to handle potentially large sums of his clients' monies in processing their insurance transactions. The Respondent testified that he is still active in the insurance field assisting his coworkers with their insurance clients. The Respondent stated that he does not solicit the clients directly but he is paid for his assistance. He stated that "these guys, they more or less throw me a bone or kickback or something, but it is not from the insurance." The Hearing Officer concludes that there remains a concern with the work that the Respondent, if granted a license, could perform, and apparently with which he is still involved despite not having a license. While the Division has made no allegation that the

Respondent has acted as an insurance producer without being properly licensed, it appears from the Respondent's own testimony that he may have.

In reviewing the above discussed standards as a whole, the Hearing Officer concludes that the Director properly denied the Respondent's application for licensing as an Illinois Insurance Producer. Of particular concern to the Hearing Officer is the Respondent's failure to adequately disclose his felony conviction during his first application process, his overall incompetency in determining whether his drug conviction had been expunged prior to reporting that it had to both securities and insurance regulators, and his failure to show adequate rehabilitation pursuant to the Medley case.

The Hearing Officer further concludes that the Director should assess against the Respondent as a civil penalty a penalty of \$500.00 for obtaining his Insurance Producer's License through misrepresentation and providing incorrect information on his Insurance Producer's Application.

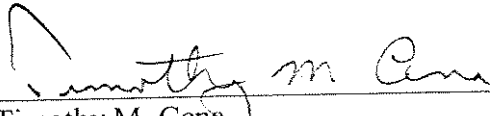
Finally, the Hearing Officer concludes that the Respondent should bear the costs of this proceeding. Said costs consist solely of the court reporting firm fees charged to the Division (see Hearing Officer Exhibit # 3). The Hearing was instigated at the Respondent's request as well as for the Respondent's expected benefit. As a result, he should bear the costs of this proceeding.

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 denial of the Respondent's application for an Illinois Insurance Producer's License be affirmed;
- 2) That the Director assess a civil penalty against the Respondent in the amount of \$500.00; and
- 3) That the Director assess the costs of this proceeding against the Respondent in the amount of \$281.20.

Respectfully submitted,



Timothy M. Cena
Hearing Officer

Date: 11/7/05