

STATE OF ALASKA

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In the Matter of:)
)
 HARLEY LABODA)
)
 Licensee)
 _____)

Case No. D 18-03

ORDER OF REVOCATION

1. The division, under AS 21.27.040, requires an applicant for a license under AS 21.27 to submit an application on a nationally utilized form available from the National Insurance Producer Registry (NIPR). The NIPR is a non-profit affiliate of the National Association of Insurance Commissioners (NAIC) and is a public-private partnership that supports the work of the states and the NAIC in making the producer-licensing process more cost-effective, streamlined, and uniform for the benefit of regulators, the insurance industry, and the consumers they protect and serve.

2. Question 1a of the application form provides: "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor? You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a

suspended or revoked license. You may also exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court)."

3. Question 1a of the application also requires the applicant, for each misdemeanor, to attach to the application a written statement explaining the circumstances of each incident; a copy of the charging document; and a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

4. On or about March 26, 2017, the division received from Laboda an application for a credit insurance limited producer license. For Question 1a of the application Laboda answered "Yes."

5. Laboda also disclosed five misdemeanors and attached documents to his application as required under Question 1a of the application relating to these misdemeanors.

6. As part of the application process, the division, under AS 21.27.040(e) and 3 AAC 23.010, requires the applicant to submit a full set of fingerprints so the division may obtain criminal justice information about the applicant, as provided under AS 12.62.

7. On or about April 7, 2017, the division received Laboda's set of fingerprints and forwarded them to the Alaska Department of Public Safety (DPS), under AS 12.62.160, to obtain criminal justice information, if any, and to do a criminal history record check.

8. On or about April 26, 2017, the division issued Laboda credit insurance limited producer license number 100143367.

9. On or about June 16, 2017, the division received information from (DPS) indicating the Federal Bureau of Investigation (FBI) conducted a national fingerprint search of Laboda and the search found that on or about February 7, 2002, Laboda had been charged with domestic battery/assault; on or about February 16, 2006, Laboda had been charged with theft 3; and on or about August 26, 2006, Laboda had been charged with theft 3.

10. Laboda, however, failed to disclose the three misdemeanors listed under paragraph 9 or attach the required documents relating to these three misdemeanors to his application.

11. On or about June 16, 2017, the division, utilizing Laboda's mailing address on file, sent Laboda a letter by certified mail informing Laboda:

A. the division had received the background report which revealed Laboda's domestic battery/assault and theft 3 undisclosed misdemeanor convictions;

B. of the procedure for Laboda to change, correct, or update identification records or to challenge the accuracy or completeness of any entry on Laboda's record to the FBI;

C. that AS 21.27.020(a) provides: "For the protection of the people of this state, the director may not issue or renew a license except in compliance with this chapter and may not issue a license to a person, or to be exercised by a person, found by the director to be untrustworthy, incompetent, or who has not established to the satisfaction of the director that the person is qualified under this chapter."

D. that the division was providing Laboda with the opportunity to address the information contained in the background report and to address why, if a conviction occurred, that it was not disclosed;

E. that while the division had not made any presumption of guilt, if Laboda was unable to provide the division with evidence that the information reflected in the background report was incorrect within 45 days from the date of the letter, the division would take action against Laboda's license based on the information contained in the background report; and

F. Laboda's failure to disclose a conviction on the application could reflect untrustworthiness, which could be the basis to suspend, revoke, or deny renewal of a license under AS 21.27.410.

12. On or about July 24, 2017, the division's letter identified in paragraph 11 was returned to the division by the United States Postal Service (USPS) as unclaimed.

13. AS 21.27.025(a) requires a licensee to notify the director in writing within 30 days after a change in residence, place of business, legal name, fictitious name or alias, mailing address, electronic mailing address, or telephone number.

14. AS 21.27.025(b) provides: "In addition to any other penalty provided by law, a failure to notify the director as required by this section is cause for denial, nonrenewal, suspension, or revocation of a license."

15. On or about July 24, 2017 the division, utilizing Laboda's electronic mailing address on file, informed Laboda that he was required to disclose his prior criminal convictions "by the close of business on 08/08/2017, to avoid any action taken against your license."

16. On or about August 8, 2017, in a telephone conversation with the division, Laboda indicated he would obtain documents relating to his prior convictions. Laboda, however, failed to disclose his prior criminal convictions or provide the documentation.

17. On or about October 9, 2017, the division, utilizing Laboda's electronic mailing address on file, after noting Laboda's failure to disclose his criminal convictions, informed Laboda that he was required to disclose his prior criminal convictions "by the close of business on 10/16/2017, to avoid any action taken against your license." Laboda responded indicating he had "had many life events happen since our last conversation", that he "haven't heard anything for the State of Idaho", and that he would "follow up with them tomorrow." Laboda, however, failed to disclose his prior criminal convictions or provide the documentation from Idaho.

18. On or about November 1, 2017, the division, utilizing Laboda's electronic mailing address on file, informed Laboda that the division was "still awaiting the disclosure of his previous criminal convictions." Laboda replied informing the division he will have to call "ada COUNTY AGAIN TO SEE WHY I HAVEN'T RECEIVED THE DOCS I PAID FOR. I DO APPOLOGIZE FOR THE TIME IT HAS TAKEN." Laboda, however, failed to disclose his prior criminal convictions or provide the documentation from Ada County.

19. On or about November 2, 2017, the division, utilizing Laboda's electronic mailing address on file, notified Laboda that he would "be required to provide the documentation requested by our office within the next 15 business days or the division will proceed with further action." Laboda did not reply to the division's email or provide any documentation.

20. On or about January 9, 2017, the division, utilizing Laboda's telephone number on file, called Laboda and left a message indicating that he would need to contact the division and provide an update regarding the requirements that had been previously requested of him. Laboda did not return the division's telephone call.

21. On or about January 18, 2018, the division, utilizing Laboda's telephone number on file, called Laboda again regarding the division's repeated requests for Laboda to disclose his prior criminal convictions. Laboda indicated he had thought the division had "pulled his license a few months ago" and indicated he would contact the clerk of the court to request the documents requested by the division. Laboda, however, failed to disclose his criminal convictions or provide any documentation from the clerk of the court.

22. On or about January 30, 2018, the division, utilizing Laboda's electronic mailing address on file, notified Laboda that this would be Laboda's "**final**" opportunity to submit the requested requirements," that Laboda would have a week from the date of the email to submit the requested documentation, and that "if the required documentation is not received by the **close of business on 02/06/18**, the division would consider revoking [Laboda's] license." Laboda failed to disclose his criminal convictions or submit the required documents.

23. AS 21.27.410, in relevant part, provides that the director of the division of insurance may revoke a license for

A. a cause for which issuance of the license or its renewal could have been denied had it then existed and been known to the director;

B. a violation or participation in a violation of a provision of this title; and

C. the conduct of affairs under a license if the licensee exhibits conduct considered by the director to reflect incompetence or untrustworthiness, or to be a source of potential injury and loss to the public.

24. As set out in Paragraphs 1 through 23, Laboda failed to disclose three misdemeanors or provide the required documents and information relating these misdemeanors in his application for an insurance license, which reflects untrustworthiness under AS 21.27.020 and makes him unqualified for a license under AS 21.27.

26. Laboda's demonstrated untrustworthiness in failing to disclose three misdemeanors or provide the required documents and information relating to these misdemeanors in his application are grounds for the director to deny, nonrenew, suspend, or revoke a license under AS 21.27.410.

27. As set out in Paragraphs 1 through 23, Laboda failed to notify the director in writing within 30 days after a change in residence, place of business, legal name, fictitious name or alias, mailing address, electronic mailing address, or telephone number, as required by AS 21.27.025(a).

28. Laboda's violation of AS 21.27.025(a) is grounds for the director to deny, nonrenew, suspend, or revoke a license under AS 21.27.025(b).

IT IS ORDERED

Under AS 21.27.410 and AS 21.27.025, the producer license number 100143367 issued to Harley Laboda is REVOKED. This order constitutes the final order in this matter. Under AS 21.06.230 and Alaska Appellate Rule 602(a)(2), you may appeal this final decision within 30 days. See the attached Notice of Final Order and Appeal Rights.

DATED August 21st, 2018.



Lori Wing-Heier
Director