



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ANDREW GRIZZARD,

Applicant.

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Case No. 131223679C

ORDER REFUSING TO ISSUE ADDITIONAL LINES TO AN INSURANCE PRODUCER LICENSE

On March 28, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue additional lines to Andrew Grizzard's non-resident insurance producer license. After reviewing the Petition, the 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. Andrew Grizzard, ("Grizzard") is a Florida resident with a residential address of 10300 West Bay Harbor Drive, Apartment 2-B, Bay Harbor Islands, Florida 33154.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Grizzard a non-resident insurance producer license for accident and health sales on August 17, 2012. This license is set to expire on August 17, 2014.
3. The Department received Grizzard's Application to add the life line of authority to his existing non-resident insurance producer license ("Application for Additional Lines") on July 22, 2013.
4. The "Attestation" section of the Application for Additional Lines, states, in relevant part:

I hereby certify, under penalty of perjury, that 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.

5. Grizzard accepted the "Attestation" section of the Application for Additional Lines.
6. Background Question No. 2 of the Application for Additional Lines asks the following:

Have you ever been named or involved as a party in an administrative proceeding including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?

7. Grizzard marked "No" to Background Question No. 2.
8. However, during its investigation, the Consumer Affairs Division ("Division") discovered two (2) regulatory actions, to which Grizzard was a party, that Grizzard failed to disclose on his Application for Additional Lines.
9. On September 24, 2012, the Colorado Division of Insurance ("Colorado") sent Grizzard a letter by certified mail denying his applications for licensure as a non-resident insurance producer with accident and health authorities ("Colorado Denial").

- a. The letter listed the following reasons for denial:

- Engaging in unauthorized insurance activities through the sale of policies to two Colorado consumers without a license;
- Failure to respond to the Division's February 4, 2010 letter regarding the unauthorized insurance activities (in violation of 3 CCR 702-1:1-1-8);
- Failure to demonstrate that you are competent, trustworthy and of good moral character and good business reputation;
- Violation of, or noncompliance with, any insurance law, or violation of any lawful rule, order, or subpoena or the commissioner or of the insurance department of another state;
- Commission of any unfair trade practice or fraud;
- The use of fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial responsibility in this state or elsewhere;
- Failure to fully meet the licensing requirements.

- b. The Colorado Denial informed Grizzard that he may make a written demand within sixty (60) days for a hearing before the Commissioner, and that if no demand were made, the Colorado Denial would become non-appealable.

- c. Grizzard failed to make a written demand for a hearing on the Colorado Denial.
- d. As a result, the Colorado Denial became non-appealable, and therefore final, on November 23, 2012.

In re Andrew Grizzard, Letter Denying Colorado License Applications 258849 and 260559, Case No. EC6172 (Sept. 24, 2012).

- 10. In an email dated October 6, 2013, Grizzard provided the following explanation regarding the Colorado Denial by stating, in pertinent part:

[I]t all stems from Colorado alleging that I sold two policies in their state in early 2009. I worked in a call center in Florida for a company named Cinergy Health from 11/12/2008-03/01/2009. These were inbound calls for individual health insurance policies. Cinergy handled all the paperwork to license (non-resident) all contracted agents in certain states. The system, as we were told and always seemed to work, would not route calls to you from a state where you were not licensed.

- 11. On February 27, 2013, the Kentucky Department of Insurance ("Kentucky") entered an Order of Revocation ("Kentucky Order") against Grizzard.

- a. The Kentucky Order listed the following reasons for revocation:
 - Failing to notify Kentucky that his Colorado application for an insurance license had been denied (in violation of KRS 304.9-467(1));
 - Providing incorrect, misleading, incomplete, or materially untrue information in his license application;
 - Violating insurance laws, or violating any administrative regulations, subpoena, or order of the Kentucky Insurance Commissioner or of another State's insurance Commissioner;
 - Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance;
 - Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in Kentucky or elsewhere;
 - Having an insurance license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory;
 - Revocation or suspension of any other license held by Grizzard issued by Kentucky or by any other jurisdiction; and

- Failing to meet the requirements for initial licensure.
- b. The Kentucky Order notified Grizzard that he may make a written application for a hearing within sixty (60) days of the effective date of the Order, which was February 27, 2013.
- c. Grizzard failed to make a written application for a hearing.
- d. Therefore, the Kentucky Order became final on April 29, 2013.

In re Andrew Grizzard, Order of Revocation, DOI No. 78838, File No. 2013-0027 (Feb. 27, 2013).

12. Grizzard did not report the Colorado Denial to the Department within thirty (30) days of the final disposition of the matter.
13. Grizzard did not report the Kentucky Order to the Department within thirty (30) days of the final disposition of the matter.
14. During its investigation, the Division also discovered a regulatory action, to which Grizzard was a party, that was entered after Grizzard submitted his Application for Additional Lines.
15. On December 12, 2013, the Delaware Department of Insurance ("Delaware") entered a Final Decision and Order ("Delaware Order") against Grizzard that revoked his producer license and fined him \$500.00.
 - a. The Delaware Order states that Grizzard violated 18 Del C. § 1719(a) by not reporting to the Commissioner an adverse administrative action in another jurisdiction or by another governmental agency within thirty (30) days of the final disposition of the matter as required.
 - b. The Delaware Order states that a hearing was held on October 10, 2013 and that Grizzard waived his right to provide comments to the Department within twenty (20) days as required by Delaware law.
 - c. Therefore, the Delaware Order was final on December 12, 2013.

In re Andrew Grizzard, Final Decision and Order, Docket No. 2164-2013, DE License No. 1249601, Case No. 135330 (Dec. 12, 2013).

16. Grizzard did not report the Delaware Order to the Department within thirty (30) days of the final disposition of the matter.

CONCLUSIONS OF LAW

17. Section 375.141 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;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere; or

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

21. Section 375.141.6 provides:

An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal 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. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when he failed to disclose that he had been a party in two (2) administrative proceedings in response to Background Question No. 2, to wit:

- a. *In re Andrew Grizzard*, Letter Denying Colorado License Applications 258849 and 260559, Case No. EC6172 (Sept. 24, 2012); and
 - b. *In re Andrew Grizzard, Order of Revocation*, DOI No. 78838, File No. 2013-0027 (Feb. 27, 2013).
24. Each failure to disclose is a separate and sufficient cause for refusal pursuant to § 375.141.1(1).
25. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose that he had been a party in two (2) administrative proceedings, in response to Background Question No. 2, to wit:
 - a. *In re Andrew Grizzard*, Letter Denying Colorado License Applications 258849 and 260559, Case No. EC6172 (Sept. 24, 2012); and
 - b. *In re Andrew Grizzard, Order of Revocation*, DOI No. 78838, File No. 2013-0027 (Feb. 27, 2013).
26. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause for refusal pursuant to § 375.141.1(3).
27. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(9) because he had an insurance producer license, or its equivalent, denied, suspended or revoked in Colorado, Kentucky, and Delaware, to wit:
 - a. *In re Andrew Grizzard*, Letter Denying Colorado License Applications 258849 and 260559, Case No. EC6172 (Sept. 24, 2012);
 - b. *In re Andrew Grizzard, Order of Revocation*, DOI No. 78838, File No. 2013-0027 (Feb. 27, 2013); and
 - c. *In re Andrew Grizzard, Final Decision and Order*, Docket No. 2164-2013, DE License No. 1249601, Case No. 135330 (Dec. 12, 2013).
28. Each denial or revocation is a separate and sufficient cause for refusal pursuant to § 375.141.1(9).
29. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance law, RSMo § 375.141.6, by failing to report to the Director the administrative actions

taken against him in Colorado, Kentucky, and Delaware within thirty (30) days of the final disposition of those matters. Because Grizzard has an active non-resident insurance producer license, he is required to report such actions within thirty (30) days.

30. Each failure to report an administrative action in violation of Missouri insurance law is a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
31. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(2) because he violated a Colorado insurance regulation, 3 CCR 702-1:1-1-8(5)(b), which states: "[E]very person shall provide a complete and accurate response to any inquiry from the Division within twenty (20) calendar days from the date of the inquiry." Grizzard violated this regulation when he failed to respond to Colorado's February 4, 2010 inquiry letter regarding Grizzard's unauthorized insurance activities.
32. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(2) because he violated a Kentucky insurance law, KRS 304.9-467(1), which states: "An individual or business holding a license issued under this subtitle . . . shall notify the Commissioner in writing immediately if the licensee's license to conduct insurance . . . business of any kind in this state or elsewhere is surrendered or terminated under threat of disciplinary action, refused, suspended, revoked, or renewal of continuance is denied." Grizzard violated this law when he failed to report the Colorado Denial to Kentucky.
33. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(2) because he violated a Delaware insurance law, 18 Del. C. § 1719(a), which states: "A producer shall report to the Insurance Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents." Grizzard violated this law when he failed to report the Colorado Denial to Delaware.
34. Each violation of the insurance laws or regulations of another state is a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
35. Grizzard may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(8) because he demonstrated incompetence in the conduct of business in this state or elsewhere when he sold two (2) health insurance policies to Colorado residents without a license to sell that product in Colorado.

36. Each demonstration of incompetence in the conduct of business in this state or elsewhere is a separate and sufficient cause for refusal pursuant to § 375.141.1(8).
37. The Director has considered Grizzard's history and all of the circumstances surrounding Grizzard's Application for Additional Lines. Granting Grizzard's Application for Additional Lines would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue additional lines to Grizzard's non-resident insurance producer license.
38. This Order is in the public interest.


ORDER

IT IS THEREFORE ORDERED that application of **Andrew Grizzard** to add lines to his individual non-resident insurance producer license is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 3RD DAY OF APRIL, 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 4th day of April, 2014 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Andrew Grizzard
10300 West Bay Harbor Drive
Apartment 2-B
Bay Harbor Islands, Florida 33154

Tracking No. 1Z0R15W84298927197


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