



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:

Gary D. Stevens,

Applicant.

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Case No. 140610496C

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On October 28, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Gary D. Stevens's 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.

FACTUAL BACKGROUND

1. Gary D. Stevens ("Stevens") is a Missouri resident with a residential address of 9912 Hardesty Ave., Kansas City, Missouri 64137, and a business address of 405 W. Lexington Ave., Independence, Missouri 64050.
2. On or about October 8, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a resident insurance producer license application ("Application") from Stevens.
3. Stevens previously held a resident insurance producer license from the Department, most recently from October 11, 2006 to October 11, 2008.
4. In the section of the Application headed "Employment History" and in a supplemental attachment to the Application, Stevens disclosed the following employment experience:
 - a. From May 1998 to April 2003, Stevens was employed by Assured Quality Title in Kansas City, Missouri as a Title Abstractor.
 - b. From June 2003 to July 2006, Stevens was employed by Capital Title Agency in Leawood, Kansas as a Title Abstractor.
 - c. From April 2006 to February 2011, Stevens was employed by Unified Government in Kansas City, Kansas as a Title Abstractor.
 - d. From February 2011 to August 2011, Stevens was employed by First American Title in Independence, Missouri, with no listed position noted in the Application.
 - e. From May 2012 to the date of his Application submission, Stevens was employed by

Secured Title of Kansas City in Independence, Missouri as a Title Abstractor.

5. By consistently listing his position as "Title Abstractor" throughout the Employment History section of the Application, Stevens indicated that he performed comparable job duties for each of his listed employers, despite not being licensed as an insurance producer in Missouri after October 11, 2008.
6. During the course of her investigation, Special Investigator Marjorie Thompson ("Thompson") of the Consumer Affairs Division contacted Stevens's supervisors at First American Title and Secured Title of Kansas City ("Secured Title"). Both supervisors, Tina Perez and Karen Reagan, respectively, confirmed that Stevens examined titles and prepared title commitments.
7. Secured Title also confirmed that as of December 4, 2013, it no longer employed Stevens.
8. At no point during Stevens's periods of employment with First American Title and Secured Title did Stevens possess an insurance producer license in Missouri.
9. On February 18, 2014, Thompson sent an inquiry letter by first-class mail to Stevens's residential address of record requesting that Stevens provide a detailed description of his employment subsequent to the expiration of his producer license and other related information. The inquiry letter requested a response by March 6, 2014. The first-class mail was not returned as undeliverable.
10. Stevens did not respond to the February 18, 2014 inquiry letter with the requested information and did not contact the Department in any way to demonstrate a reasonable justification for a delayed response.
11. On March 31, 2014, Thompson sent a second inquiry letter by first-class mail to Stevens's residential address of record requesting that Stevens provide a detailed description of his employment subsequent to the expiration of his producer license and other related information. The inquiry letter requested a response by April 21, 2014. The first-class mail was not returned as undeliverable.
12. Stevens did not respond to the March 31, 2014 inquiry letter with the requested information and did not contact the Department in any way to demonstrate a reasonable justification for a delayed response.

CONCLUSIONS OF LAW

13. Section 375.141, RSMo (Supp. 2014),¹ 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 All statutory references are to the Revised Statutes of Missouri (Supp. 2014) unless otherwise noted.

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

* * *

(12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed[.]

14. Section 381.115, RSMo, provides, in part:

1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent.

2. It is unlawful for any person to transact business as:

* * *

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015 or is exempt from licensure under subsection 3 of this section.

* * *

3. A salaried employee of a title insurer, title agency, or title agent is exempt from licensure as a title agent if the employee does not materially perform or supervise others who perform any of the following:

* * *

(5) Conduct title search or examinations; [or]

(6) Execute title insurance policies, commitments, binders or endorsements[.]

15. Title 20 CSR 100-4.100 Required Response to Inquiries by the Consumer Affairs Division, provides, in part:

(2)(A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

16. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).
17. 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).
18. Stevens may be refused an insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance regulation, namely 20 CSR 100-4.100, when he failed to respond to two inquiries from the Consumer Affairs Division, letters dated February 18, 2014 and March 31, 2014, within twenty (20) days from the date of mailing, and failed to demonstrate a reasonable justification for the delay.
19. Each failure to respond is a separate and sufficient ground to refuse to issue Stevens an insurance producer license pursuant to § 375.141.1(2).
20. Stevens may be refused an insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance law, namely § 381.115.1, when he transacted the business of title insurance, specifically conducting title searches or examinations, without authorization as a title insurer, title agency or title agent.
21. Stevens may be refused an insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance law, namely § 381.115.1, when he transacted the business of title insurance, specifically preparing title commitments, without authorization as a title insurer, title agency or title agent.
22. Stevens may be refused an insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance law, namely § 381.115.2(2), when he transacted business as a title agent, specifically conducting title searches or examinations, without an individual insurance producer license or an exemption from licensure thereto.
23. Stevens may be refused an insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance law, namely § 381.115.2(2), when he transacted business as a title agent, specifically preparing title commitments, without an individual insurance producer license or an exemption from licensure thereto.
24. Stevens may be refused an insurance producer license pursuant to § 375.141.1(12) because he knowingly acted as an insurance producer when not licensed.
25. The Director has considered Stevens's history and all of the facts and circumstances surrounding the Application, and for the reasons stated in this Order exercises his discretion in refusing to issue Stevens an insurance producer license.

26. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Gary D. Stevens is hereby REFUSED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 30TH DAY OF OCTOBER, 2014.




JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

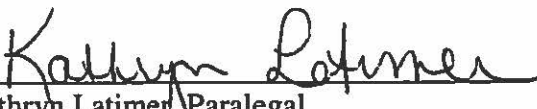
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120 RSMo. Under 1 CSR 15-3.290, unless you send your complaint by registered 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 31st day of October, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS with signature required at the following address:

Gary D. Stevens
9912 Hardesty Ave.
Kansas City, MO 64137

Tracking No. 1Z0R15W84298528190


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