



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

In re:

LISA SALAMON,

Respondent.

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DIFP No. 120606429C

AHC No. 12-1747 DI

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER OF DISCIPLINE**

Based on the competent and substantial evidence on the whole record, I, John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, hereby issue the following findings of fact, conclusions of law, and order of discipline:

Findings of Fact

1. John M. Huff is the duly appointed Director ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") whose duties, pursuant to Chapters 374, 375, and 384, RSMo, include supervision, regulation and discipline of insurance producers and surplus lines insurance producers.

2. The Department originally issued Lisa Salamon ("Salamon") a non-resident

insurance producer license (No. 0431869) on January 5, 2009, which she most recently renewed on January 6, 2011. Such license expired on January 5, 2013.

3. The Department also issued Salamon a surplus lines producer license (No. 0431869) on January 12, 2010. That license expired on January 12, 2012.

4. The Director filed a Complaint with the Administrative Hearing Commission ("Commission") on September 21, 2012, seeking a finding that cause exists to discipline Salamon's insurance producer and surplus lines producer licenses. On October 5, 2012, the Commission served Salamon with a copy of the Complaint. Salamon did not file an Answer.

5. On January 29, 2013, the Director filed a Motion for Partial Summary Decision and Suggestions in Support. Salamon did not file a response.

6. On March 5, 2013, the Commission issued its Order finding cause to discipline Salamon's insurance producer and surplus lines producer licenses pursuant to §§ 375.141.1(2) and 384.065(4), (6), and (7) RSMo Supp. 2012.¹

7. In support of its finding of cause for discipline, the Commission found the following facts and made the following conclusions:

a. On February 7, 2012, the Kentucky Department of Insurance ordered Salamon to pay a civil penalty for her failure to file her 2010 Local Government Premium Tax Annual Reconciliation report, in violation of KRS 91A.080, KRS 304.10-180, and 806 KAR 2:095. *In the Matter of Lisa Salamon*, DOI No. 696304 (the "Kentucky Order"). Salamon is subject to discipline pursuant to § 375.141.1(2) for violating the insurance laws of another state.

¹ All statutory references are to the 2012 Supplement to the Revised Statutes of Missouri unless otherwise noted.

b. Salamon did not appeal the Kentucky Order. Therefore, the Kentucky Order became final on April 7, 2012. *Id.*

c. Salamon failed to report the Kentucky Order to the Director within 30 days of the final disposition of the matter as required by § 375.141.6. Therefore, Salamon is subject to discipline pursuant to § 375.141.1(2) for violating § 375.141.6.

d. Pursuant to § 384.057.1, Salamon was required to file an annual Surplus Lines Tax Report with the Department for the 2011 tax year before March 2, 2012. She failed to do so.

e. On April 25, 2012, the Department's Consumer Affairs Division ("Division") sent Salamon a letter and requested that she respond to the Division by May 16, 2012, to explain why she failed to file her annual Surplus Lines Tax Report by the March 2, 2012 deadline. Although Salamon received the Division's April 25, 2012 letter on April 28, 2012, she did not respond to the letter or contact the Division.

f. Salamon is subject to discipline pursuant to §§ 375.141.1(2) and 384.065(4), (6), and (7)² for violating § 384.057.1 by failing to file her annual Surplus Lines Tax Report for 2011.

g. Salamon is subject to discipline pursuant to §§ 375.141.1(2) and 384.065(7) for violating 20 CSR 100-4.100(2)(A) by failing to respond to the Division's April 25, 2012 inquiry.

8. On March 8, 2013, the Director filed a Notice of Dismissal of Count VI and

²Section 384.065(7) provides for discipline of a surplus lines licensee for any cause for which an insurance license could be disciplined under § 375.141.

Request for an Order.³

9. On March 8, 2013, the Commission issued its Decision dismissing Count VI of the Complaint and incorporating the March 5, 2013 Order, by reference, into the final decision.

10. The Commission certified the record of its proceeding to the Director pursuant to § 621.110.

11. Thereafter, the Director's served Salamon by certified mail and first class mail with an Amended Notice of Hearing, which set the Disciplinary Hearing for 9:00 a.m., May 30, 2013, in Room 830 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. On May 3, 2013, the hearing officer received a signed certified mail receipt, dated April 29, 2013. The U.S. Postal Service had not returned as undeliverable the Notice of Hearing sent to Salamon by regular mail.

12. On May 30, 2013, the Director, through his hearing officer, Carolyn H. Kerr, held the disciplinary hearing. Neither Salamon nor anyone representing her appeared at the disciplinary hearing. Tammy Kearns, representing the Consumer Affairs Division, presented the Commission's record and recommended that Salamon's insurance producer and surplus lines producer licenses be revoked.

13. At the hearing, the hearing officer took official notice of the Commission's record of proceedings and the Notice of Hearing. The hearing officer admitted the Commission's record and the Notice of Hearing as Exhibits 1 and 2, respectively.

14. The Director hereby adopts and incorporates the March 8, 2013 Decision,

³ Count VI is the count not disposed of by the Commission's March 5, 2013 Order granting partial summary decision.

including the March 5, 2013 Order, of the Administrative Hearing Commission and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Lisa Salamon*, No. 12-1747 DI (Mo. Admin. Hrg. Comm'n, March 8, 2013).

Conclusions of Law

15. Section 374.051.2, states, in relevant part:

If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine appropriate discipline.

16. Section 375.141 states, in relevant 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:

* * *

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

* * *

4. The director may also revoke or suspend pursuant to subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

* * *

6. 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.

17. Section 384.065(7) provides for discipline of a surplus lines licensee for any cause for which an insurance license could be disciplined under § 375.141.

18. The Director may revoke any license issued by the Director where the licensee has failed to renew such license. §§ 375.141.4 and 384.065(7).

19. Section 621.110 outlines the procedure after the Commission finds cause to discipline a license. That statute provides, in relevant part:

Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee . . . , the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. . . . Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing[.] . . . The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. . . .

20. Where an agency seeks to discipline a license, the Commission “finds the predicate facts as whether cause exists” for the discipline, and then the agency “exercises final decision making authority concerning the discipline to be imposed.” *Tendai v. Board of Reg'n for the Healing Arts*, 161 S.W.3d 358, 364-65 (Mo. banc 2005), *overruled on other grounds*, *Albanna v. Board of Reg'n for the Healing Arts*, 293 S.W.3d 423, 428 n.2 (Mo. banc 2009).

21. Section 384.065 states, in relevant part:

The director may suspend, revoke, or refuse to renew the license of a surplus lines licensee after notice and hearing as provided under the applicable provisions of this state's laws upon any one or more of the following grounds:

* * *

- (4) Failure to make and file required reports;

* * *

- (6) Violation of any provision of sections 384.011 to 384.071;

- (7) For any cause for which an insurance license could be denied, revoked, suspended or renewal refused under section 375.141.

22. Section 384.057 requires that surplus lines licensees file an annual Surplus Lines

Tax Report, and provides, in part:

1. Before March second of each year, each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to the year ending the immediately preceding December thirty-first for nonadmitted insurance where the home state of the insured is this state:

- (1) The gross amounts charged for surplus lines insurance, exclusive of sums collected for the payment of federal, state or local taxes;

- (2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance, exclusive of sums collected for the payment of federal, state and local taxes, less returned premiums.

23. Title 20 CSR 200-6.100(1)(B) Surplus Lines Insurance Forms provides:

(B) Surplus Lines Licensee's Tax Report – Appendix 3 is the method prescribed by the director of the Missouri Department of Insurance,

Financial Institutions and Professional Registration for filing the annual report required by section 384.057, RSMo. The Surplus Lines Licensee's Tax Report – Appendix 3 data must be filed electronically using the systems, software, and/or method prescribed by the director.

24. The instructions for completing Appendix 3 provide, in part:

Section 384.057 RSMo requires that before March 2, of each year each Surplus Lines Producer shall file with the Director the Surplus Lines tax report know[n] as the Appendix 3 form. If you held a Surplus Lines license anytime during the tax year, you are required to submit the Appendix 3 form. If no business was placed, you are required to file a zero return.

25. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer

Affairs Division provides:

(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.

26. The Director has the discretion to discipline Salamon's insurance producer and surplus lines producer licenses, including the discretion to revoke such licenses. §§ 374.051.2, 375.141, 384.065, and 621.110.

27. The principal purpose of § 375.141 is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

28. Salamon violated the insurance laws of an insurance commissioner in another state, namely Kentucky; failed to report an administrative action taken against her by the Kentucky Insurance Department within 30 days of the final disposition of the matter; failed to file a required report, namely her annual Surplus Lines Tax Report; violated a Missouri

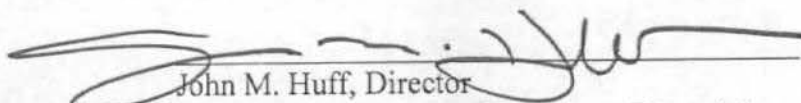
insurance law when she failed to file an annual Surplus Lines Tax Report; violated a provision of the Missouri Surplus Lines Law; and violated a Missouri insurance regulation when she failed to respond to an inquiry from the Division within 20 days and failed to provide a reasonable justification for a delayed response.

29. Based on the nature and severity of the aforementioned conduct, sufficient grounds exist for revoking Salamon's insurance producer and surplus lines producer licenses pursuant to §§ 375.141.1(2) and 384.065(4), (6), and (7).

ORDER

Based on the foregoing findings and conclusions, the insurance producer license and surplus lines producer license of **Lisa Salamon** (License No. 0431869) are hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 3RD DAY OF JULY, 2013.


John M. Huff, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

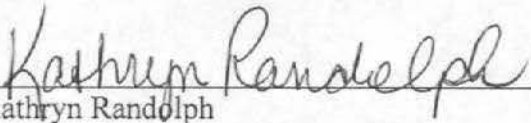


CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July, 2013, a copy of the foregoing was served by first class mail and certified mail to the following:

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