



State of Missouri

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

IN RE:)	
)	
MATTHIEW A. BURKE,)	Case No. 160817385C
)	
Applicant.)	

**ORDER REFUSING TO ISSUE NON-RESIDENT
INSURANCE PRODUCER LICENSE**

On December 12, 2016, the Consumer Affairs Division, submitted a Petition to the Director alleging cause to refuse to issue a non-resident insurance producer license to Matthew A. Burke. After reviewing the Petition and Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Matthew A. Burke (“Burke”) is a Florida resident with a business, residential, and mailing address of 4950 Fishermans Drive, Apartment M, Coconut Creek, Florida 33063.
2. The Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Burke’s electronic application for a non-resident individual insurance producer license (“Application”) on May 12, 2016.
3. The “Attestation” section of the Application states, in relevant part:
 1. 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.

* * *

4. I further certify, under penalty of perjury, that a) I have no outstanding state or federal income tax obligations, or b) I have an outstanding state or

federal income tax obligation and I have provided all information and documentation requested in Background Information Question [4].

4. Burke accepted the "Attestation" section of the Application as a condition of submission.
5. Background Question No. 2 of the Application asks:

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?

"Involved" means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. "Involved" also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

If you answer yes, you must attach to this application:

- a) a written statement identifying the type of license and explaining the circumstances of each incident,
- b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
- c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

6. Burke answered "No" to Background Question No. 2.
7. Contrary to Burke's response to Background Question No. 2 on his Application, on June 11, 2015, the Florida Department of Financial Services issued a Final Order denying Burke's Application for Licensure as a Resident Life Including Variable and Health Insurance Agent. *In re Matthew Chin-Sue (Antoni) Burke*, Final Order, Case No. 166787-14-AG.
8. Background Question No. 7 of the Application asks:

Do you have a child support obligation in arrearage?

7A. If you answer yes,

a) by how many months are you in arrearage?

7B.

b) are you currently subject to and in compliance with any repayment agreement?

7C.

c) are you the subject of a child support related subpoena/warrant? (If you answered yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)

9. Burke answered "Yes" to Background Question No. 7 and further indicated that he was "12" months in arrearage, was subject to and in compliance with a repayment agreement, and that he was not the subject of a child support related subpoena or warrant.
10. On June 7, 2016, in response to requests for documentation from the Consumer Affairs Division, Burke provided a payment history for his child support obligation. The payment history evidences that Burke is obligated to pay \$568.59 per month in child support. As of May 12, 2016, Burke had arrears totaling \$9,738.62. *Imoan Petonia Whyte v. Matthew A. Burke*, Palm Beach Co. Cir. Civ. Ct., Case No. 14-0700385-CA.
11. Contrary to Burke's response to Background Question No. 7A, in which Burke stated that he was "12" months in arrearage, as of May 12, 2016, Burke's arrearage had been accruing for over 18 months.
12. It is inferable, and hereby found as fact, that Burke answered "No" to Background Question No. 2 of the Application in order to misrepresent to the Director his history of professional or occupational licensure and, accordingly, to increase the chance that the Director would approve his Application and issue Burke a non-resident insurance producer license.
13. It is inferable, and hereby found as fact, that Burke answered "12" months in response to Background Question No. 7A of the Application in order to misrepresent to the Director the extent of his non-compliance with a child support obligation and, accordingly, to increase the chance that the Director would approve his Application and issue Burke a non-resident insurance producer license.

CONCLUSIONS OF LAW

14. Section 375.141 RSMo (Supp. 2013)¹ provides, in relevant part:

¹ All statutory references are to the Revised Statutes of Missouri (2000), as updated by the 2013 Supplement, unless otherwise noted.

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;

* * *

(3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;

* * *

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

* * *

(13) Failing to comply with an administrative or court order imposing a child support obligation[.]

15. The Director may refuse to issue a non-resident insurance producer license to Burke pursuant to § 375.141.1(1) because Burke intentionally provided materially incorrect, misleading, incomplete, or untrue information in the Application when he failed to disclose that he has been a party to an administrative proceeding in response to Background Question No. 2 and when he understated his child support arrearage.
16. Each time Burke intentionally provided materially incorrect, misleading, incomplete or untrue information in his Application is a separate and sufficient cause to refuse his license under § 375.141.1(1).
17. The Director may refuse to issue a non-resident insurance producer license to Burke pursuant to § 375.141.1(3) because Burke attempted to obtain a license through material misrepresentation or fraud when he failed to disclose that he has been a party to an administrative proceeding in response to Background Question No. 2 of the Application and when he understated his child support arrearage.
18. Each time Burke attempted to obtain a license through material misrepresentation or fraud in his Application is a separate and sufficient cause to refuse his license under § 375.141.1(3).
19. The Director may refuse to issue a non-resident insurance producer license to Burke pursuant to § 375.141.1(9) because he was denied an insurance producer license, or its equivalent, by Florida.

- a. *In re Matthew Chin-Sue (Antoni) Burke*, Final Order, Florida Dep't of Fin. Servs. Case No. 166787-14-AG.
20. The Director may refuse to issue a non-resident insurance producer license to Burke pursuant to § 375.141.1(13) because Burke failed to comply with an administrative or court order imposing a child support obligation:
- a. *Imoan Petonia Whyte v. Matthew A. Burke*, Palm Beach Co. Cir. Civ. Ct., Case No. 14-0700385-CA. (Arrearage of \$9,738.62 when Burke submitted his Application).
21. The Director has considered Burke's history and the circumstances surrounding Burke's Application. Granting Burke a non-resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a non-resident insurance producer license to Burke.
22. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that Matthew A. Burke's non-resident insurance producer license application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 15th DAY OF December, 2016.



A handwritten signature in blue ink, appearing to read "John M. Huff", is written over a horizontal line.

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 15th day of December, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, signature required, to the following address:

Matthew A. Burke
4950 Fishermans Dr., Apt. M
Coconut Creek, Florida 33063

Tracking No. 1Z0R15W84292395077



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