State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
James P. Dunham	)	Case No. 07A000295
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
200 N W 62nd Terrace Gladstone, MO 64118	)))	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On November 30, 2007, Kathyrn Turner, Chief Investigations Counsel for the Investigations Section of the Consumer Affairs Division, submitted a petition to the Director alleging cause for refusing to issue the insurance producer license of James P. Dunham ("Applicant"). After reviewing the petition, and the investigative report, the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. James P. Dunham is a Missouri resident with an address of 200 N W 62nd Terrace, Gladstone, Missouri 64118.

2. On March 29, 2007, James P. Dunham ("Applicant') filed a Uniform Application for Individual Insurance Producer License ("Application") with the Department of Insurance seeking licensure as an insurance producer.

3. Question 39-7. of the Application asks,

> "Do you have a child support obligation in arrearage?
>
> If you answer yes,

a) by how many months are you in arrearage?
b) are you currently subject to a repayment agreement?
c) are you the subject of a child support releated [sic] subpoena/warrant?"

4. Applicant marked "Yes" to having a child support arrearage and "Yes" to currently being subject to a repayment agreement.

5. As to the amount of the arrearage requested in Question 39-7 part a), Applicant hand wrote "in dispute" on the line next to "Months". Applicant answered "No" to being the subject of a child support related subpoena/warrant.

6. On February 9, 2005, a Judgment for Dissolution of Marriage was filed in the Circuit Court of Clay County, Missouri. The Judgment included an order of child support of $850.00 per month to be paid by Applicant.

7. On September 10, 2007, a Judgment Modifying Child Support was entered reducing Applicant's child support obligation to $297.00 per month. (A subsequent Judgment Modifying Child Support Order Nunc Pro Tunc, dated October 1, 2007, confirmed the amount as $297.00 per month.)

8. As of November 8, 2007, Applicant's child support arrearage totaled $22,982.11.

9. On April 24, 2007, and July 17, 2007, letters were sent to Applicant to provide additional documentation regarding his child support arrearage. Applicant failed to respond to those letters.

10. This order is in the public interest.

CONCLUSIONS OF LAW

11. Section 375.141.1 RSMo (Cum. Supp. 2006) provides, in part:

> 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...;
>
> (8) ...demonstrating incompetence...in the conduct of business in this state...;
>
> (13) Failing to comply with an administrative or court order imposing a child support obligation;

12. Section 374.210.2 RSMo 2000, provides, in part:

> 2. Any person who shall refuse to give such director full and truthful information, and answer in writing to any inquiry or question made in writing by the director, in regard to the business of insurance carried on by such person...shall be deemed guilty of a misdemeanor...

13. The Consumer Affairs Division has presented sufficient evidence to support the conclusion that Applicant is subject to refusal on the statutory grounds in paragraphs 11 and 12.

14. As §375.141 provides that the director "may" refuse a license application, the director has discretion under this section for refusing to issue a license to Applicant on the basis of his failure to respond to written inquiries and on his failure to comply with a court ordered child support obligation. ***State Bd. Of Regis'n for the Healing Arts v. Finch***, 514 S.W. 2d 608 (Mo. App., E.D. 1984). The issuance of a license to an applicant for an insurance producer license "places the seal of the state's approval upon the licentiate and certifies to the public that he possess these requisites [competency, skill...]" ***State ex rel. Lentine v. State Bd. Of Health***, 66 S.W. 2d 943, 950 (Mo. 1993) cited in ***David R. Hess v. Director of Insurance***, No. 93-000368DI, p.4, footnote 5 (Mo. Admin. Hearing Comm'n August 9, 1993). By his failure to respond to requests from the Consumer Affairs investigator reviewing the Application for a Missouri insurance producer license, Applicant has demonstrated incompetence. Being responsive to the regulatory agency issuing his license is a basic duty which he has failed to perform and is a violation of a specific Missouri law requiring a response.

15. In applying this discretion, the Director has considered the history of the Applicant and all of the circumstances surrounding the Applicant's Application, including the attempts of the Consumer Affairs investigator to obtain information from Applicant, his failures to respond and his failure to comply with a court ordered child support obligation. The Applicant's past and present financial circumstances do present evidence of financial untrustworthiness and risk to prospective insurance consumers. The Applicant's history raises additional questions regarding Applicant's ability to comply with Missouri law and whether he has demonstrated that he can meet the significant responsibilities of a licensed insurance producer in the near future. Applicant cannot be given the state's seal of approval. For all of these reasons, the Director exercises his discretion in refusing to license the Applicant.

16. The Director, in making this decision, has considered all of the information within the whole record of the Application as presented by the Applicant as well as the Consumer Affairs Division. Any failure to specifically address a piece of evidence, information, position or argument of any party does not indicate that the

Director has failed to consider relevant information, but indicates rather that the omitted material was not dispositive of the Director's decision.

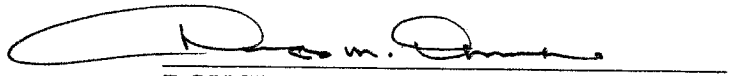
17. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the issuance of the insurance producer license of Applicant James P. Dunham is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 7th DAY OF December, 2007.



DOUGLAS M. OMMEN
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.

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December, 2007, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified mail.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff