State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
	)	Case No. 08A000563
Tamara Eryn Sibson,	)	
Applicant.	)	
	)	
Serve at:	)	
Tamara Sibson	)	
411 W. Plumb Lane	)	
Reno, NV 89509	)	
	)	

REFUSAL TO RENEW INSURANCE PRODUCER LICENSE

On March 10, 2009, Andy Heitmann, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew the insurance producer license of Tamara Eryn Sibson. 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 summary order:

FINDINGS OF FACT

1. Tamara Eryn Sibson ("Sibson") is an individual residing in Nevada.

2. Sibson held a license as an individual insurance producer in Missouri (license number PR374859) from July 24, 2006, until July 25, 2008, when her license expired.

3. On or about June 3, 2008, the Department received the Producer Renewal Notice ("Renewal Notice") of Sibson, along with the fee required for renewal of Sibson's individual insurance producer license.

4. The Renewal Notice originally had been mailed to Sibson by the Department as a reminder of the upcoming expiration of her license and as a document to be returned to the Department and processed along with the required fee.

5. The Renewal Notice had been mailed by the Department to Sibson at her

mailing address of record, which was 411 West Plumb Lane, Reno, Nevada, 89509. That address also appears near the top of the Renewal Notice.

6. At no time since Sibson was originally licensed by the Department did Sibson inform the Department of any change to her mailing address of record.

7. Sibson did not include any other documents or statements with the Renewal Notice she mailed to the Department, nor did Sibson add any statement to the Renewal Notice concerning her criminal or disciplinary history.

8. As part of the renewal process, the Investigations Section of the Consumer Affairs Division of the Department ("Consumer Affairs Division") began an investigation of Sibson's background to determine whether renewal of her license was appropriate.

9. Upon running a check of the National Association of Insurance Commissioners (NAIC) Regulatory Information Retrieval System ("RIRS"), the Consumer Affairs Division found that an administrative action had been taken by the Nevada Division of Insurance against the insurance producer license of Sibson.

10. The RIRS record for Sibson indicated that on or about May 16, 2008, she had consented to a fine of $250 imposed by the Nevada Division of Insurance for "FAILURE TO MAKE REQUIRED DISCLOSURE ON LICENSE APP: CRIMINAL RECORD/HISTORY."

11. When Sibson originally applied for her Missouri insurance producer license in 2006, Sibson submitted an electronic Non-Resident Insurance Producer License Application ("2006 Application") on or about July 21, 2006.

12. The 2006 Application included a section labeled "Attestation Statement." On the Department's printed copy of the electronic application, below the Attestation Statement, next to the words "Applicants [sic] Certification and Attestation" appears a letter "Y," an indication from the online application form program that Sibson electronically affirmed that she had read the Attestation Statement and agreed to it.

13. In agreeing to the Attestation Statement, Sibson certified that "under penalty of perjury, 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."

14. The 2006 Application also included Background Question # 1, which asked "Have you ever been convicted of a crime, had a judgment withheld or

deferred, or are you currently charged with committing a crime?"

15. Sibson answered "No" to Background Question # 1.

16. Although Sibson certified under penalty of perjury that her 2006 Application was true and complete, it was neither.

17. Contrary to Sibson's answer to Background Question # 1, a certified copy of a Consent to Fine from the Nevada Division of Insurance, dated May 16, 2008, and bearing Sibson's notarized signature, indicates that Sibson had been found guilty of the following offenses in Nevada:

    a. On February 28, 1996, contempt of court, in Reno Municipal Court case 96-038724;

    b. On November 24, 1998, disturbing the peace, in Reno Municipal Court case 98-213535;

18. On or about July 25, 2008, Consumer Affairs Division Special Investigator Carrie Couch ("Investigator") mailed a letter to Sibson requesting information and certified records concerning Sibson's criminal and disciplinary history. The Investigator requested a response by August 14, 2008, and advised Sibson that failure to respond could result in refusal of her license.

19. On or about August 20, 2008, having received no response to her July 25, 2008 letter, the Investigator mailed another letter to Sibson, again requesting information and certified documentation concerning Sibson's criminal and disciplinary history. The Investigator required a response by September 10, 2008, and again advised Sibson that failure to respond could result in refusal of her license.

20. On or about September 19, 2008, the Department sent by certified mail a Subpoena Duces Tecum to Sibson at her mailing address of record, in which the Department ordered Sibson to appear before the Director or her appointee on October 9, 2008, to testify concerning her criminal and disciplinary history and to bring with her certified copies of documents relevant to that history.

21. On October 8, 2008, Sibson called the Investigator and in the course of the conversation indicated that she had not received the Subpoena Duces Tecum and that she did not intend to appear as ordered.

22. On October 8, 2008, Sibson also sent an email to the Investigator in which she indicated her intention to withdraw her application for renewal.

23. On October 9, 2008, the Investigator went on the record in an attempted investigative conference pursuant to the September 19, 2008 Subpoena Duces

Tecum and testified under oath that Sibson had not appeared as ordered.

24. The Investigator further testified under oath that the Subpoena Duces Tecum had been sent by certified mail on September 19, 2008, to Sibson's address of record, that the Subpoena had not been received back by the Department and that the Postal Service Form 3811 (the "green card" signed by a recipient of certified mail) also had not been received back by the Department. The Investigator further testified that the U.S. Postal Service website did not contain any record or information concerning the item.

25. On October 23, 2008, not having received any written request from Sibson to withdraw her application for renewal, the Investigator emailed Sibson to remind her of the need to send such written notice. However, Sibson did not respond to that email.

26. Sibson failed to correct her answer to Background Question # 1. Sibson never informed the Department of her criminal history, and the Department was forced to acquire a certified copy of her Nevada Consent to Fine directly from the Nevada Commissioner of Insurance in order to discover the nature of her criminal history. The Department was unable to obtain certified records from the Reno Municipal Court.

27. Sibson intentionally provided materially incorrect, misleading, incomplete or untrue information in her 2006 Application when she falsely stated under penalty of perjury that she had not been convicted of a crime or had a judgment withheld or deferred.

28. Sibson failed to notify the Director within thirty (30) days of the administrative action taken against her by the Nevada Commissioner of Insurance and failed to provide the Director with a copy of the Consent to Fine.

29. Sibson failed repeatedly to cooperate with the Consumer Affairs Division investigation into the matter of her licensure in Missouri, in each instance failing to respond adequately to Department inquiries within twenty (20) days of the date the inquiry was mailed.

CONCLUSIONS OF LAW

30. Section 375.141, RSMo (Supp. 2008) 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;

...

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.

31. 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(2) Except as required under subsection (2)(B)—
(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...

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

32. Section 374.210.2, RSMo (Supp. 2008), provides, in relevant part:

The director may also suspend, revoke or refuse any license ... issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

33. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

34. The principal purpose of § 375.141, RSMo (Supp. 2008), 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).

35. Sibson may be refused renewal of her insurance producer license, based upon § 375.141.1(1), RSMo (Supp. 2008), for intentionally providing materially

incorrect, misleading, incomplete or untrue information in the license application on her 2006 Application, in that Sibson answered Background Question # 1 with a "No" despite having been found guilty of two separate offenses.

36. Sibson may be refused renewal of her insurance producer license, based upon § 375.141.1(3), RSMo (Supp. 2008), for obtaining a license through material misrepresentation or fraud, in that Sibson answered Background Question # 1 on her 2006 Application with a "No" despite having been found guilty of two separate offenses.

37. Sibson may be refused renewal of her insurance producer license, based upon § 375.141.1(2), RSMo (Supp. 2008), for violating § 375.141.6, RSMo (Supp. 2008), in that Sibson failed to report to the Department within thirty (30) days the administrative action taken against her in Nevada and failed to provide the Department with a certified copy of the Consent to Fine.

38. Sibson may be refused renewal of her insurance producer license, based upon § 375.141.1(2), RSMo (Supp. 2008), for each instance in which she violated 20 CSR 100-4.100, in that Sibson repeatedly failed to respond adequately to the Department's investigative inquiries within twenty (20) days.

39. Sibson may be refused an insurance producer license, based upon § 374.210.2, RSMo (Supp. 2008), for each instance in which she failed to provide requested records of court and administrative proceedings and for each instance in which she failed to provide a statement explaining her administrative and criminal histories.

40. The Director has considered the history of Sibson and all of the circumstances surrounding Sibson's application for renewal by way of her Renewal Notice. Sibson's misrepresentations concerning her criminal history, her failure to report an administrative action taken against her in another state, and her failure to adequately respond to and cooperate with the Department's investigation of her application for renewal, embody a pattern of disregard for this Department's regulatory authority. Renewal of Sibson's Missouri insurance producer license would not be in the interest of the public. For all of these reasons, the Director exercises his discretion in refusing to renew Sibson's license.

41. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that renewal of the insurance producer license of Tamara Eryn Sibson is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 12TH DAY OF MARCH, 2009.

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.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of March, 2009, a copy of the foregoing notice and order was served upon the Applicant in this matter by certified mail.

Karen Crutchfield

Karen Crutchfield
Senior Office Support Staff