# State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

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| **IN THE MATTER OF:** | ) | |
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| **Trevor D. Losse,** | ) | **Case No. 09-0309377C** |
| | ) | |
| **Renewal Applicant.** | ) | |

## REFUSAL TO RENEW INSURANCE PRODUCER LICENSE

On September 9, 2009, Mary S. Erickson, Senior Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew the non-resident insurance producer license of Trevor D. Losse. 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. Trevor D. Losse ("Losse") is an individual residing in the state of Washington.

2. On or about July 10, 2008, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received Losse's electronic Non-Resident Renewal Application for his individual insurance producer license ("Renewal Application").

3. The Renewal Application lists Losse's Residence and Business Addresses as 560 225th LN NE B-203, Sammamish, Washington, 98074 and his Mailing Address as P.O. Box 516, South Cle Elum, Washington, 98943.

4. The Department originally issued Losse an insurance producer license on August 31, 2006, No. 377588.

5. In the "Background Questions" secti on of his electronic 2006 Application for Non-Resident License (Losse's initial licensure), Question No. 1 asked: "Have you ever been convicted of a crime, had judgment withheld or deferred, or are you currently charged with committing a crime?"

6. Losse answered "No" to Question No. 1 on his 2006 original application.

7. In the Background Questions section of his electronic 2008 Non-Resident Renewal

Application, Question No. 1 asked: "Since the last renewal or initial application in this state, have you been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

8. Losse answered "Yes" to Question No. 1 on his Renewal Application.

9. Also under "Background Questions", Question No. 2 of the Renewal Application asked: "Since the last renewal or initial application in this state, have you or any business in which you are or were an owner, partner, officer, or director ever been involved in an administrative proceeding regarding any professional or occupational license?"

10. Losse answered "Yes" to Background Question No. 2.

11. On September 20, 2002, Losse was convicted, upon a plea of guilty, of two counts of unlawful issuance of bank checks or drafts, a violation of RCW 9A56.060(1), a misdemeanor, in Superior Court of Washington, Kittitas County, Case No. 02-1-00192-0.

12. On December 15, 2006, the California Insurance Commissioner issued a Statement of Issues against Losse regarding his application for a license as a life agent in the State of California alleging that Losse answered "No" to Question No. 1 regarding convictions, when in fact such answer was false and was known to Losse to be false. On September 6, 2007, Losse and his attorney appeared at a hearing regarding his licensure application before an administrative law judge with the California Office of Administrative Hearings. On September 24, 2007, the administrative law judge denied Losse's request for licensure. *In the Matter of the Application of Trevor D. Losse*, Case No. LBB 3613-AP, OAH No. N2007060945.

13. On March 18, 2008, the Kentucky Office of Insurance Executive Director entered an "Agreed Order of Civil Penalty", signed by Losse, assessing a civil penalty of $250.00. *In the Matter of Trevor D. Losse*, DOI No. 639061.

14. On April 18, 2008, the Superintendent of the Maine Bureau of Insurance revoked Losse's non-resident insurance producer license. *In re Trevor D. Losse*, Docket No. INS-08-300.

15. On May 12, 2008, the Delaware Insurance Commissioner entered a "Stipulation and Consent Order" executed by Losse, requiring Losse to pay a $400.00 fine for violating 18 Del. C. § 1719(a) with a one year suspension of his producer license, with the suspension waived upon payment of the fine. *In the Matter of Trevor Losse*, Docket No. 796.

16. On May 14, 2008, the Kansas Commissioner of Insurance ordered Losse to pay an administrative penalty of $250.00 for failure to notify Kansas Department of Insurance of another state agency's action and for failure to disclose prior a criminal conviction on his license application. The Kansas Commission also suspended Losse's non-resident agent's license until the penalty assessed was paid in full. *In the Matter of Kansas Nonresident Agent's License of Trevor D. Losse*, Docket No. 3832-SO.

17. On July 9, 2008, the Ohio Superintendent of Insurance revoked Losse's insurance agent license. *In re Suitability of Trevor D. Losse.*

18. On September 9, 2008, the Idaho Department of Insurance Director revoked Losse's non-resident insurance producer license. *In the Matter of Trevor D. Losse*, Docket No. 18-2481-08.

19. On July 22, 2008, Special Investigator Carrie Couch ("Couch") mailed a letter to Losse requesting more information on Losse's conviction and the regulatory actions. Couch requested a response by August 12, 2008.

20. On July 28, 2008, the Department received a letter dated July 22, 2008, from Gulliver Swenson (Losse's attorney), informing the Department of "an additional administrative action that has been taken by the State of Indiana. On July 17, 2008, an Agreed Order was entered in which Mr. Losse agreed to pay a fine of Five Hundred Dollars ($500.00)." A copy of the Agreed Order was enclosed with the letter. The July 22, 2008 Swenson letter also stated that this notification was "[i]n supplementation of the letter provided to your office on June 13, 2008."

21. On August 19, 2008, Couch mailed a letter to Gulliver Swenson stating that the Department had not received a June 13, 2008 letter. Couch also requested information regarding the conviction and regulatory actions against Losse. Couch requested a response by September 9, 2009.

22. Neither Losse nor his counsel responded to Couch's August 19, 2008 letter.

23. On September 17, 2008, Couch mailed another letter, entitled "Second Request" to Losse requesting information and documentation regarding his criminal conviction and the administrative actions taken against him.

24. Losse did not respond to the September 17, 2008 Couch letter nor did he provide the information and documentation requested.

25. On or about January 21, 2009, having received no response to Couch's requests for information and documentation, the Department served by certified mail a Subpoena Duces Tecum to Losse's mailing address, ordering Losse to appear before the Director or his appointee on February 19, 2009, for an investigation conference under oath ("Subpoena Conference").

26. The Department received the certified mail delivery receipt (U.S. Postal Service Form 3811, known as a "green card"), bearing the signature of "T Losse" (printed name, T Losse), and indicating delivery of the Subpoena on February 3, 2009.

27. On February 19, 2009, Special Investigator Couch, as the Director's appointee, attempted to hold the scheduled Subpoena Conference, but Losse failed to appear as ordered.

28. The Consumer Affairs Division has received no further response or cooperation from Losse since the attempted Subpoena Conference.

## CONCLUSIONS OF LAW

29. Section 375.141 RSMo (Supp. 2008)[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:
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> (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;
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> (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;
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> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

30. 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. 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.
> >
> > (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.

[1] All statutory references are to RSMo (Supp. 2008) unless otherwise indicated.

31. Section 374.210.2 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.

32. Section 375.141.6 states:

> 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.

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

34. Losse was convicted of two counts of unlawful issuance of bank checks or drafts. Having a criminal conviction, by guilty plea, is a memorable event not likely to be forgotten; the most likely explanation for Losse's failure to disclose such an event on his original 2006 application is that he intentionally failed to disclose the event in order to improve his chances of succeeding with his application.

35. By answering "No" to Background Question No. 1 on his 2006 application for licensure for a non-resident producer's license, Losse intentionally provided materially incorrect, misleading, incomplete or untrue information, which is a cause to refuse to renew Losse's insurance producer license under § 375.141.1(1).

36. Losse's failure to indicate his criminal conviction in his initial application for licensure led to his obtaining his Missouri license through material misrepresentation or fraud, which is a cause to refuse to renew Losse's insurance producer license under § 375.141.1(3).

37. Losse failed to respond to Division of Consumer Affairs inquiries regarding Losse's conviction and adverse administrative actions, as required by 20 CSR 100-4.100. This failure to respond constitutes cause to refuse to renew Losse's insurance producer license under § 375.141.1(2) for violating 20 CSR 100-4.100.

38. The Director ordered Losse, by Subpoena Duces Tecum, to appear at the Department to testify and produce documents regarding his criminal conviction and regulatory actions. Losse failed to appear and failed to contact the Department to reschedule the subpoena conference. Losse's failure to appear is a failure to obey an order of the Director and constitutes cause to refuse renewal of Losse's insurance producer license under both § 375.141.1(2) and § 374.210.2.

39. Renewal of Losse's insurance producer license may be refused based upon §375.141.1(9), because he has had an insurance producer license, or its equivalent,

denied in California on September 24, 2007.

40. Renewal of Losse's Missouri insurance producer license may be refused based upon § 375.141.1(9), because he has had an insurance producer license revoked in Maine on April 18, 2008.

41. Renewal of Losse's Missouri insurance producer license may be refused based upon § 375.141.1(9), because he has had an insurance producer license suspended in Delaware on May 12, 2008.

42. Renewal of Losse's Missouri insurance producer license may be refused based upon § 375.141.1(9), because he has had an insurance producer license, or its equivalent, suspended in Kansas on May 14, 2008.

43. Renewal of Losse's Missouri insurance producer license may be refused based upon § 375.141.1(9), because he has had an insurance producer license, or its equivalent, revoked in Ohio on July 9, 2008.

44. Renewal of Losse's Missouri insurance producer license may be refused based upon § 375.141.1(9), because he has had an insurance producer license revoked in Idaho on September 9, 2008.

45. Losse failed to report to the Director administrative action taken against him by at least seven (7) other states within thirty days of the final disposition of those matters, in violation of § 375.141.6, which is grounds for refusal of renewal of Losse's insurance producer license under § 375.141.1(2).

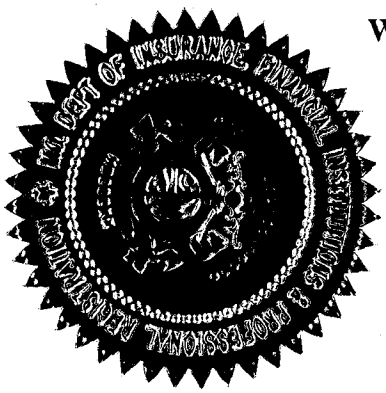
46. In applying his discretion, the Director has considered the history of Losse and all of the circumstances surrounding Losse's Application. Losse intentionally provided materially incorrect or untrue information in his original application for a Missouri non-resident insurance producer license regarding his criminal conviction. Hence, he obtained his original Missouri non-resident insurance producer license through misrepresentation or fraud. Losse made similar untrue statements or misrepresentations in his applications for an insurance producer license or its equivalent in other states. As a result of such untrue statements or misrepresentations, other states took administrative action, including revocation, against his licenses in those states. Losse failed to inform the Department of the other administrative actions. Losse further failed to respond to Department inquiries regarding his conviction and the other administrative actions and failed to appear in response to a properly-served Subpoena Duces Tecum. Losse's history demonstrates his repeated dishonesty and raises questions of his ability to comply with Missouri law and whether he can meet the significant responsibilities required of a licensed insurance producer. Renewal of Losse's non-resident insurance producer license would not be in the public interest, and, accordingly, the Director exercises his discretion by summarily refusing to renew Losse's non-resident insurance producer license.

47. The requested order is in the public interest.

## ORDER

**IT IS THEREFORE ORDERED** that renewal of the non-resident insurance producer license of Trevor D. Losse is hereby summarily **REFUSED**.

**SO ORDERED.**



**WITNESS MY HAND THIS 30TH DAY OF SEPTEMBER, 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 1st day of October, 2009, a copy of the foregoing Notice and Order was served upon the Applicant in this matter by certified mail No. 7006 0100 0005 2090 6419.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff