File #09A000552

STATE OF MISSOURI
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Michael Neumann,	)	Case No. 09A000552
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
7378 Hazelcrest Drive	)	
Hazelwood, Missouri 63042	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On September 14, 2009, Elfin L. Noce, as Legal Counsel for the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Michael Neumann ("Neumann"). 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. Neumann is a Missouri resident with an address of 7378 Hazelcrest Drive, Hazelwood, Missouri 63042.

2. On July 13, 2009, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received Neumann's electronic Uniform Application for Resident Individual Producer License ("Application").

3. In the "Background Questions" section of the Application, Question #2 asks: "Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of limited liability company, ever been involved in an administrative proceeding regarding any professional or occupational license, or registration?"

4. Neumann answered "No" to Background Question #2.

5. On January 17, 2002, in *Director of Insurance v. Michael D. Neumann*, Case No. 01-1592 DI, a hearing was held before the Administrative Hearing Commission, at which, though notified of the time and place of the hearing, neither Neumann nor anyone representing him appeared.

6. On February 27, 2002, in *Director of Insurance v. Michael D. Neumann*, Case No. 01-1592 DI, before the Administrative Hearing Commission, the Administrative Hearing Commission issued *Findings of Fact and Conclusions of Law* and found Neumann's Missouri insurance agent license was subject to discipline for misappropriation, conversion, and illegally withholding money belonging to an insurance company or an insured, for failing to remit premium payments associated with personal insurance policies to the insurance company within 30 days after receipt, for failing to respond in writing to the Director's written request for information, and for demonstrating a lack of trustworthiness.

7. In the February 27, 2002 *Findings of Fact and Conclusions of Law*, the Administrative Hearing Commission found the following facts:

   a. On or about November 1, 1999, Neumann received $107 from insured Just Quality Lawn and Landscaping for a premium payment on an insurance policy issued by American Family Insurance Group ("American Family"). On or about November 27, 1999, Neumann received $227.84 from Just Quality Lawn and Landscaping for a premium payment on an insurance policy issued by American Family. The premium payments belonged to American Family. Neumann failed to remit the premium payments of $107 and $227.84 to American Family and he appropriated the money for his own use.

   b. On or about January 11, 2000, Neumann received $502 from insured Wilma Kennedy for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $502 premium payment to American Family and he appropriated the money for his own use.

   c. On or about March 4, 2000, Neumann received $1,065 from insured Villa at Grand Glaize for a premium payment on an insurance policy issued by American Family. On or about June 3, 1999, Neumann received $2,621 from Villa at Grand Glaize for a premium payment on an insurance policy issued by American Family. On or about July 10, 2000, Neumann received $3,302 from Grand Glaize for a premium payment on an insurance policy issued by American Family. The premium payments belonged to American Family. Neumann failed to remit the premium payments of $1,065, $2,621, and $3,302 to American Family and he appropriated the money for his own use.

   d. On or about April 27, 2000, Neumann received $535 from insured David Hansen for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $535 premium payment to American Family and he appropriated the money for his own use.

e. On or about May 16, 2000, Neumann received a premium refund check of $443.70 for insured Chris Hopkins from American Family. The premium refund belonged to Chris Hopkins. Neumann failed to remit the $443.70 premium refund to Chris Hopkins and he appropriated the money for his own use.

f. On or about August 5, 2000, Neumann received $1,400 from insured Jeff Brown for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $1,400 premium payment to American Family and he appropriated the money for his own use.

g. On or about August 25, 2000, Neumann received $452 from insured John Dolan for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $452 premium payment to American Family and he appropriated the money for his own use.

h. On or about October 16, 2000, Neumann received $95.98 from insured Robin Smith for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $95.98 premium payment to American Family and he appropriated the money for his own use.

i. On or about October 16, 2000, Neumann received $220 from insured Mario Badra for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $220 premium payment to American Family and he appropriated the money for his own use.

j. On or about October 16, 2000, Neumann received $595 from insured Arnell Dickens for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $595 payment to American family and he appropriated the money for his own use.

k. On or about October 16, 2000, Neumann received $64.40 from insured Gene Adams for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $64.40 premium payment to American Family and he appropriated the money for his own use.

l. On or about October 17, 2000, Neumann received $157.10 from insured Juan Vazquez for a premium payment on an insurance policy issued by American

Family. The premium payment belonged to American Family. Neumann failed to remit the $157.10 premium payment to American Family and he appropriated the money for his own use.

m. On or about October 17, 2000, Neumann received $279.75 from insured David Lee for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $279.75 premium payment to American Family and he appropriated the money for his own use.

n. On or about October 23, 2000, Neumann received $510.84 from insured Marvin Ashley for a premium payment on an insurance policy issued by American Family. The premium payment belonged to American Family. Neumann failed to remit the $510.84 premium to American Family and he appropriated the money for his own use.

o. The money Neumann received from Mario Badra, Arnell Dickens Gene Adams, Juan Vazquez, David Lee, Wilma Kennedy, John Dolan, David Hansen, Marvin Ashley, Jeff Brown, Robin Smith, and Chris Hopkins was for premium payments associated with personal insurance policies. In each of these matters, Neumann knowingly failed to remit the premium payments to American Family within 30 days of receiving the payments.

p. In each of the above matters, the persons and entities that remitted premium payments to Neumann were unknowingly without insurance coverage for a period of time.

8. On April 30, 2002, in *Scott B. Lakin, Director Missouri Department of Insurance v. Michael D. Neumann*, MDI Case No. 01-0515467C, AHC Case No. 01-1592 DI, a disciplinary hearing was held, at which, though notified of the time and place of the hearing, neither Neumann nor anyone representing him appeared.

9. On August 2, 2002, Scott B. Lakin, the Director of the Missouri Department of Insurance,[1] revoked Neumann's Missouri insurance agent license in *Scott B. Lakin, Director Missouri Department of Insurance v. Michael D. Neumann*, MDI Case No. 01-0515467C, AHC Case No. 01-1592 DI, for misappropriation, conversion, and illegally withholding money belonging to an insurance company or an insured, for failing to remit premium payments associated with personal insurance policies to the insurance company within 30 days after receipt, for failing to respond in writing to the Director's written request for information, and for demonstrating a lack of trustworthiness.

10. On August 3, 2009, Neumann wrote a letter to the Director of the Department, stating that he did not remember his insurance producer being revoked in 2002 and in explanation stated "So when I resigned wether (*sic*) it be acconting (*sic*) or

[1] Now known as the Missouri Department of Insurance, Financial Institutions & Professional Registration.

mismanagement, I did not have all of the funds they said they where (*sic*) do (*sic*). For this I was deeply sorry but I didn't know what else to do. I have since made restetution (*sic*) to American Family. They kept 7 years of [commission] renewals in lue (*sic*) of payment."

CONCLUSIONS OF LAW

11. 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;
>
> . . .
>
> (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
>
> . . .
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
>
> . . .

12. 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).

13. Neumann may be refused an insurance producer license based upon § 375.141.1(4), RSMo (Supp. 2008) for misappropriating, converting and illegally withholding money totaling $12,578.61 that belonged to an insurance company and to insureds in the course of doing insurance business.

14. Having an insurance producer license revoked by the State of Missouri is a memorable event not likely to be forgotten; the most likely explanation for Neumann's failure to disclose such an event on his application is that he intentionally failed to disclose the event in order to improve his chances of succeeding with his application.

15. Neumann may be refused an insurance producer license based upon § 375.141.1(1), RSMo (Supp. 2008) for intentionally providing materially incorrect, misleading, incomplete and untrue information in his license application by answering "No" to Background Question #2, when his Missouri insurance producer license was revoked on August 2, 2002.

16. Neumann may be refused an insurance producer license based upon § 375.141.1(3), RSMo (Supp. 2008) for attempting to obtain a license through material misrepresentation or fraud by answering "No" to Background Question #2, when his Missouri insurance producer license was revoked on August 2, 2002.

17. Neumann may be refused an insurance producer license based upon § 375.141.1(8), RSMo (Supp. 2008), for use of fraudulent or dishonest practices and demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this state by misappropriating, converting, and withholding money belonging to an insurance company and to insureds, along with answering "No" to Background Question #2.

18. In applying his discretion, the Director has considered the history of Neumann and all of the circumstances surrounding Neumann's Application including Neumann's misappropriating, converting and illegally withholding money that belonged to an insurance company and to insureds and the misrepresentation in the Application. Neumann's past history as an insurance producer and his misrepresentation on his Application raises questions of Neumann's ability to comply with Missouri law and whether he can meet the significant responsibilities required of a licensed insurance producer. For these reasons, the Director exercises his discretion in refusing to issue an insurance producer license to Neumann.

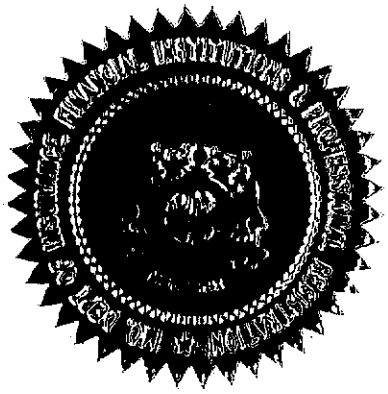
19. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that issuance of the insurance producer license of Applicant Michael Neumann is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 29th 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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 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 October, 2009, a copy of the original of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 7006 0100 0005 2090 6563 to:

Michael Neumann
2466 Maple Crossing Drive
Wildwood, MO 63011

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff