# State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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| **IN RE:** | ) | |
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| **ALEX EUGENE OLIVER SR.,** | ) | **Case No. 150213090C** |
| | ) | |
| **Applicant.** | ) | |

## ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On August 5, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a non-resident insurance producer license to Alex Eugene Oliver Sr. After reviewing the Petition and the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and order:

## FINDINGS OF FACT

1. Alex Eugene Oliver Sr. ("Oliver") is an Illinois resident with a residential, business, and mailing address of 7741 South Bishop, Apartment 2, Chicago, Illinois 60620.

2. On September 30, 1991, the New York State Insurance Department[1] entered an Order that revoked Oliver's New York insurance producer license ("**1991 New York Revocation**").

   a. The 1991 New York Revocation adopted the Hearing Officer's Reported Recommendation which made the following findings of fact:

* * *

> 3. In or about May, 1990, [Oliver's] agency relationship with Combined Life Insurance Company of New York (CLI) was terminated for cause.
>
> 4. [Oliver] admitted that during April and May, 1990, he submitted

[1] As of October 3, 2011, this agency is now known as the New York State Department of Financial Services.

approximately 17 applications for insurance for fictitious clients.

5. [Oliver] transmitted fraudulently obtained checks as payment for those applications. The checks were from accounts of two individuals who were unaware that [Oliver] had taken their blank checks and then signed their names to the checks.

6. [Oliver] failed to transmit premium payments in the amount of $90.00. Instead, [Oliver] converted the payments to his own use and sent fraudulent checks to CLI.

b. The 1991 New York Revocation notified Oliver that the revocation would take effect ten (10) days after the mailing of the decision. Therefore, the 1991 New York Revocation became final on or about October 10, 1991.

*In the Matter of the Applications and/or Licenses of Alex E. Oliver*, Superintendent's Determination After Hearing (Sept. 30, 1991).

3. On February 20, 2001, the Illinois Department of Insurance entered into a Stipulation and Consent Order ("**2001 Illinois Consent Order**") with Oliver that granted him an Illinois insurance producer license and ordered that he pay a civil forfeiture in the amount of $1,000.00. *In the Matter of: Alex Eugene Oliver Sr.*, Stipulation and Consent Order (Feb. 20, 2001).

4. On October 31, 2001, the Director of the Missouri Department of Insurance[2] ("Director" of the "Department") denied Oliver's application for additional lines of authority ("2001 Application"). Oliver appealed the Director's decision to the Administrative Hearing Commission ("Commission").

5. On May 30, 2002, the Commission found that the Director had cause to deny Oliver's 2001 Application pursuant to § 375.141.1(2) and (4) and .2 RSMo (2000) ("**2002 Missouri Denial**"). The Commission also found that cause existed to discipline Oliver's then-current insurance producer license pursuant to § 375.141.1(2), (4), and (9) RSMo (2000).[3]

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[2] As of August 28, 2006, this Department is now known as the Missouri Department of Insurance, Financial Institutions and Professional Registration.

[3] At the time of the Commission's decision, the relevant parts of § 375.141 RSMo (2000) read as follows:

> 1. The director may revoke or suspend, for such period as he or she may determine, any license of any insurance agent, agency or broker if it is determined as provided by sections 621.045 to 621.198, RSMo, that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have:
>
> * * *
>
> (2) Obtained or attempted to obtain license by fraud, misrepresentation or made material misstatement in the application for license;

a. The Commission made the following findings of fact:

1. [In] 1991, New York revoked the New York license ([1991 New York Revocation])[.]

2. In December 1999, Oliver filed with the Director an insurance agent application dated and notarized on August 25, 1999 ["1999 Application"] to sell health insurance. On February 3, 2000, relying on the representations in the [1999 Application], the Director issued insurance agent License No. AT290687360. That license was at all relevant times current and active.

3. On February 7, 2001, Oliver signed a stipulation and consent agreement with the Illinois Department of Insurance ([2001 Illinois Consent Order])[.]

4. On September 6, 2001, Oliver filed with the Director [the "2001 Application"] for an amended insurance agent license adding life insurance to the products he was licensed to sell.

* * *

6. Oliver filled out each application on the date it was notarized. He intentionally answered falsely items III.A[4] (licensed in another state) on the [1999 Application], and III.B[5] (disciplined in another state) on the [2001 Application], to conceal his licensing history.

b. The Commission made the following conclusions of law and found that cause

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* * *

(4) Demonstrated lack of trustworthiness or competence; [or]

* * *

(9) Had revoked or suspended any insurance license by another state[.]

* * *

2. The director may refuse to issue any license to any insurance agent, agency or broker if he or she determines that the licensee or applicant has, at any time, or if an insurance agency, the officers, owners or managers thereof have violated any of the provisions set out in subsection 1 of this section.

[4] Question III.A. of the 1999 Application and 2001 Application asked: "Do you hold now, or have you ever held an insurance license in another state in the U.S. or the provinces of Canada?"

[5] Question III.B. of the 1999 Application and 2001 Application asked: "Has any disciplinary action, including but not limited to, refusal, suspension, revocation, ever been taken by any regulatory agency in any state or province of Canada against you or any business with which you have been directly connected?"

existed to discipline Oliver's then-current insurance producer license and deny his 2001 Application pursuant to:

i. Sections 375.141.1(2) and 375.141.2 because Oliver obtained a license by fraud, misrepresentation, and making a material misstatement on his 1999 Application in response to question III.A when he failed to disclose that he had been licensed in another state.

ii. Sections 375.141.1(2) and 375.141.2 because Oliver obtained a license by making a material misstatement on his 1999 Application in response to question III.B when he failed to disclose his 1991 New York Revocation.

iii. Sections 375.141.1(2) and 375.141.2 because Oliver attempted to obtain a license by fraud, misrepresentation, and making a material misstatement on his 2001 Application in response to question III.B when he failed to disclose his 1991 New York Revocation and his 2001 Illinois Consent Order.

iv. Sections 375.141.1(9) and 375.141.2 because Oliver's license was revoked in New York.

v. Sections 375.141.1(4) and 375.141.2 because Oliver's misstatements on his applications demonstrated lack of trustworthiness or competence.

*Oliver v. Director of Ins.*, No. 01-1826 DI (Mo. Admin. Hrg. Comm'n May 30, 2002).

6. Based on the Commission's findings, on October 11, 2002, the Director entered an Order of Discipline that revoked Oliver's then-current Missouri insurance producer license pursuant to § 375.141.1(2), (4), and (9) RSMo (2000)[6] ("**2002 Missouri Revocation**").

a. The 2002 Missouri Revocation was mailed to Oliver by first class mail on October 15, 2002, and was not returned to the Department as undeliverable; therefore, Oliver is presumed to have received it.

b. Oliver did not file a Petition for Judicial Review or any appeal to the circuit court regarding his 2002 Missouri Revocation.

*In re: Alex E. Oliver*, Findings of Fact, Conclusions of Law, and Order of Discipline, MDI Case No. 01-1030652C, AHC Case No. 01-1826 DI.

7. On August 9, 2004, the Director issued a letter ("**2004 Missouri Refusal**") refusing to issue an insurance producer license to Oliver pursuant to § 375.141.1(4), (6), and (9)

[6] At the time of the 2002 Missouri Revocation, the relevant parts of § 375.141 RSMo (2000) are identical to those portions quoted in Footnote 1.

RSMo (Supp. 2003).[7]

a. The 2004 Missouri Refusal was mailed to Oliver by certified mail on August 9, 2004, and was not returned to the Department as undeliverable; therefore, Oliver is presumed to have received it.

b. The 2004 Missouri Refusal notified Oliver that, pursuant to § 621.120, he had the right to appeal the decision by filing a complaint with the Commission within thirty (30) days after the date of mailing.

c. Oliver did not file a complaint with the Commission regarding his 2004 Missouri Refusal.

*In re: Alex E. Oliver*, Application For License, File No. 04A000200 (Aug. 9, 2004).

8. On October 8, 2009, the Director issued a Refusal to Issue Insurance Producer License (**"2009 Missouri Refusal"**) that refused to issue an insurance producer license to Oliver pursuant to § 375.141.1(1), (3), (4), (8), (9), and (10) RSMo (Supp. 2008).[8]

a. The Director, as evidenced in the 2009 Missouri Refusal, made the following findings of fact:

* * *

7. On August 10, 2002, [P.D.M.] complained to the Department that Oliver forged his name to an authorization for direct payment form that related to an insurance application.

8. On August 18, 2002, in response to [P.D.M.]'s complaint, Oliver wrote a letter to the Department stating, in part, "I am very sorry that [P.D.M.] has experienced problems with his bank but I had no wrong doing in this situation. This is a [*sic*] oversight on [P.D.M.]'s part. Once again I am sorry this happen [*sic*] to [P.D.M.] but no forgery or fraud was committed on my part in this matter and I am very upset about the allegations."

9. On September 10, 2002, again in response to [P.D.M.]'s complaint, Oliver wrote a second letter to the Department stating:

On august 18th I responded to allegations accusing me of

[7] At the time of the 2004 Missouri Refusal, the relevant parts of § 375.141 (Supp. 2003) are identical to the current § 375.141 RSMo (Supp. 2013).

[8] At the time of the 2009 Missouri Refusal, the relevant parts of § 375.141 RSMo (Supp. 2008) are identical to the current § 375.141 RSMo (Supp. 2013).

> signing a bank draft on [P.D.M.] who applied for health insurance thru mid-west national life ins co. the letter I wrote stated that I did not sign the draft. When I wrote the letter I did so knowing this was a true statement because I have never signed one before. On Friday September 6th I was given a chance to review the signature for the first time and with my deepest regrets the signature is mine. I cant explain the guilt I feel at this point but only assure you that it was a misstate and no attempt to hurt [P.D.M.] was there. Mid-west has already contacted [P.D.M.] to resolve this case as quickly as possible. I would also like to apologize to the department of insurance for the time they had to put into this case.

b. The Director made the following conclusions of law, in which he found that grounds existed to refuse to issue an insurance producer license to Oliver pursuant to:

   i. Section 375.141.1(9) because Oliver's New York insurance producer license was revoked.

   ii. Section 375.141.1(1) because Oliver intentionally provided false answers to question III.A (licensed in any other state) on his 1999 Application and question III.B (prior disciplinary actions) on his 2001 Application.

   iii. Section 375.141.1(3) because Oliver obtained, and attempted to obtain, a license through material misrepresentation and fraud when he provided false answers to question III.A (licensed in any other state) on his 1999 Application and question III.B (prior disciplinary actions) on his 2001 Application.

   iv. Section 375.141.1(4) because Oliver misappropriated money in the course of doing insurance business.

   v. Section 375.141.1(10) because Oliver signed P.D.M.'s name to a document related to an insurance transaction without authorization.

   vi. Section 375.141.1(8) because Oliver used fraudulent and dishonest practices and demonstrated untrustworthiness in the conduct of business when he forged applications for insurance, misappropriated a premium, and signed P.D.M's name to a document related to an insurance transaction without authorization.

c. The 2009 Missouri Refusal was mailed to Oliver by certified mail on October 8, 2009.

d. The 2009 Missouri Refusal notified Oliver that, pursuant to § 621.120, he had the

right to appeal the decision by filing a complaint with the Commission within thirty (30) days after the date of mailing.

e. Oliver did not file a complaint with the Commission regarding his 2009 Missouri Refusal.

*In the Matter of: Alex E. Oliver*, Refusal to Issue Insurance Producer License, Case No. 09A000586 (Oct. 8, 2009).

9. On December 10, 2014, the Department received Oliver's electronic application for an individual non-resident insurance producer license ("2014 Application").

10. The "Applicant's Certification and Attestation" section of the 2014 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.

11. Oliver accepted the "Applicant's Certification and Attestation" section of the 2014 Application.

12. Background Question No. 2 of the 2014 Application asked the following:

> 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.

13. Oliver answered "Yes" in response to Background Question No. 2 of the 2014 Application.

14. Oliver attached the following to his 2014 Application:

    a. An undated letter in which Oliver states: "NO document to submit. Already on file with the department of insurance. I don't have a copy[.] This was in 2002.";

    b. A letter dated July 21, 2009 in which Oliver states, in relevant part, "[m]y license was revoked back in 2002 for failure to disclose I once had a license in New York State that had been revoked."; and

    c. A document entitled "Regulatory Actions" dated August 5, 2009, which lists the 1991 New York Revocation, the 2001 Illinois Consent Order, the 2002 Missouri Revocation, and the 2002 Missouri Denial.

    d. The document entitled "Regulatory Actions" does not include any reference to the 2004 Missouri Refusal or the 2009 Missouri Refusal.

15. On January 5, 2015, after reviewing Oliver's 2014 Application and his administrative history, Special Investigator Karen Crutchfield of the Consumer Affairs Division ("Division") of the Department sent an inquiry letter to Oliver via first class mail and electronic mail. Said inquiry letter requested an explanation for Oliver's failure to disclose his full administrative action history as well as any consumer complaints Oliver may have had.

16. On January 5, 2015, Special Investigator Karen Crutchfield received an email from Oliver in which he stated, in relevant part:

    a. "To the best of my knowledge my license in New York state was revoked for failure to appear for the hearing appox [sic] 1990…I wrote a bad check to cover a policy."

    b. "I only recall one [consumer complaint] were a customer claims I signed a [sic] auto bank draft form without his consent. I would take a lie detector test if I needed to claim otherwise. In my opinion when the funds came out of his account he either wasn't prepared or changed his mind. But at the time he was working on a customer's hair and said to me go ahead a [sic] sign for me."

c. "I reapplied for a non resident license I believe in 2009 and was denied [2009 Missouri Refusal]."

17. On January 5, 2015, Special Investigator Karen Crutchfield received a second email from Oliver in which he stated in regards to the New York revocation:

> I was in a desperate time in my life and wrote business on friends and family members that basically never paid me the premiums so the checks bounced. I forged information for family members because I knew the answers but wasn't in the presence of applicants.

18. Oliver did not disclose the 2004 Missouri Refusal in either of his two January 5, 2015 emails to the Department.

19. It is inferable, and hereby found as fact, that Oliver misrepresented the facts underlying his 1991 New York Revocation in order to minimize the extent of his wrongdoing to the Director, and accordingly, in order to improve the chances that the Director would approve his 2014 Application and issue him an individual non-resident insurance producer license. Contrary to Oliver's statements that his license was revoked because he failed to appear for a hearing and wrote a bad check, the 1991 New York Revocation reveals that the revocation was based on submission of numerous forged applications for insurance, fraudulently writing checks on accounts without authorization, and misappropriating a premium.

20. It is inferable, and hereby found as fact, that Oliver failed to disclose his full administrative action history on his 2014 Application in order to misrepresent and minimize his administrative history to the Director, and accordingly, in order to improve the chances that the Director would approve his 2014 Application and issue him an individual non-resident insurance producer license. The documents that Oliver attached to his 2014 Application regarding past administrative actions demonstrate that Oliver understood what disclosures were required in response to Background Question No. 2.

## CONCLUSIONS OF LAW

21. Section 375.141 RSMo (Supp. 2013)[9] 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;
>
> * * *

[9] All civil statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 Supplement, unless otherwise indicated.

(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;

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

(10) Signing the name of another to an application for insurance or to any document related to an insurance transaction without authorization[.]

22. Collateral estoppel "is used to preclude the relitigation of an issue that already has been decided in a different cause of action." *Brown v. Carnahan*, 370 S.W.3d 637, 658 (Mo. banc 2012) (citation omitted).

23. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

24. The principal purpose of § 375.141 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).

25. The Director may refuse to issue an individual non-resident insurance producer license to Oliver pursuant to § 375.141.1(1) because, as found in the 2009 Missouri Refusal, Oliver intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when he failed to disclose that he was previously licensed in another state on his 1999 Application.

26. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(1) because, as found in the 2009 Missouri Refusal, Oliver intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when he failed to disclose his 1991 New York Revocation and his 2001 Illinois Consent Order on his 2001 Application.

27. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(1) because Oliver intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when he failed to disclose his 2004 Missouri Refusal on his 2014 Application.

28. Each instance in which Oliver intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application is a separate and sufficient ground for refusal under § 375.141.1(1).

29. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(3) because, as found in the 2002 Revocation and the 2009 Missouri Refusal, Oliver obtained a license through material misrepresentation or fraud by failing to disclose that he was previously licensed in another state on his 1999 Application.

30. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(3) because, as found in the 2002 Revocation, Oliver obtained a license through material misrepresentation or fraud by failing to disclose his 1991 New York Revocation on his 1999 Application.

31. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(3) because, as found in the 2002 Missouri Denial and the 2009 Missouri Refusal, Oliver attempted to obtain a license through material misrepresentation or fraud by failing to disclose his 1991 New York Revocation and his 2001 Illinois Consent Order on his 2001 Application.

32. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(3) because Oliver attempted to obtain a license through material misrepresentation or fraud by failing to disclose his 2004 Missouri Refusal on his 2014 Application.

33. Each instance in which Oliver obtained or attempted to obtain a license through material misrepresentation or fraud is a separate and sufficient ground for refusal under § 375.141.1(3).

34. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(4) because, as found in the 2009 Missouri Refusal, Oliver improperly withheld, misappropriated or converted moneys or properties received in the course of doing insurance business.

35. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(8) because, as found in the 2002 Missouri Denial, 2002 Revocation, and the 2009 Missouri Refusal, Oliver used fraudulent or dishonest practices, or demonstrated incompetence or untrustworthiness in the conduct of business in this state or elsewhere when he forged applications for insurance, misappropriated a premium, signed P.D.M's name to a document related to an insurance transaction without authorization, and made misstatements on his applications for licensure.

36. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(9) because Oliver had an insurance producer license, or its

equivalent, denied, suspended or revoked in any other state, province, district or territory when New York revoked his insurance agent license.

37. The Director may refuse to issue an individual non-resident insurance producer license to Oliver under § 375.141.1(10) because, as found in the 2009 Missouri Refusal, Oliver signed the name of another to an application for insurance or to any document related to an insurance transaction without authorization when he signed P.D.M.'s name to an authorization for direct payment form without P.D.M.'s authorization as part of an application for insurance. In addition, in his September 10, 2002 letter to the Department, Oliver admitted "signing a bank draft on [P.D.M.]" after he "was given a chance to review the signature for the first time, and with [his] deepest regrets, the signature is [his]."

38. The Director has considered Oliver's history and all of the circumstances surrounding Oliver's 2014 Application. Granting Oliver an individual non-resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue an individual non-resident insurance producer license to Oliver.

39. This order is in the public interest.

## ORDER

**IT IS THEREFORE ORDERED** that the motor vehicle extended service contract producer license application of **Alex Eugene Oliver Sr.** is hereby **REFUSED.**

**SO ORDERED.**

**WITNESS MY HAND THIS** 21st **DAY OF** August, **2015.**

**JOHN M. HUFF**
**DIRECTOR**

## NOTICE

**TO: Applicant and any unnamed persons aggrieved by this Order:**

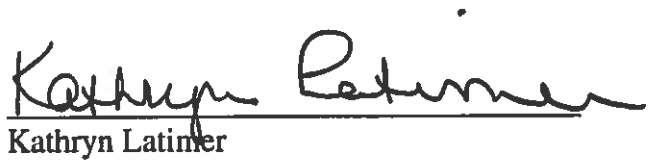
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 21st day of August, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Alex Eugene Oliver Sr.
7741 South Bishop
Apartment 2
Chicago, Illinois 60620

Tracking No. 1Z0R15W84298467283



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