



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

ROBERT BATZER,

Applicant.

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Case No. 120619449C

ORDER REFUSING TO ISSUE ADDITIONAL LINES TO AN INSURANCE PRODUCER LICENSE

On September 27, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue additional lines to Robert Batzer's insurance producer license. 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 order:

FINDINGS OF FACT

1. Robert Batzer, ("Batzer") is a Missouri resident with a residential address of 1621 June Drive, St. Louis, Missouri 63138.
2. Batzer was issued an individual producer license for life and health sales on September 6, 2005, which was renewed most recently on September 28, 2011.
3. Batzer's insurance producer license was suspended on February 27, 2012 for tax non-compliance pursuant to § 324.010 RSMo (Supp. 2011).¹
4. To date, Batzer's insurance producer license remains suspended and is set to expire on September 6, 2013.
5. The Department of Insurance, Financial Institutions and Professional Registration ("Department") received Batzer's Application to add property and casualty lines of authority to his existing individual resident insurance producer license ("Application") on July 5, 2011.
6. Batzer's Application was submitted by Ronda Wiechens ("Wiechens"), an Authorized Submitter.

¹ All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2011) unless otherwise noted.

7. By submitting the Application on Batzer's behalf, Weichens certified as follows:

"As the authorized submitter, I declare that the applicant provided all the information submitted on this application."

8. The "Attestation" section of the 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.

9. The "Attestation" section of the Application was accepted.

10. Background Question No. 4 of the Application asks the following:

Have you ever been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?

11. Batzer marked "No" to Background Question No. 4.

12. However, during its investigation, the Consumer Affairs Division ("Division") discovered the following delinquent tax obligations that Batzer failed to disclose:

a. On or about June 27, 2011, the St. Louis County Circuit Court entered a judgment against Batzer for unpaid taxes for the 2008 and 2009 filing years as follows:

[Department of Revenue], under Section 143.902, RSMo, hereby certifies that the following assessment of individual income tax, interest, additions to tax, penalties, and fees have been made and become final [in the amount of \$2,394.46]. Interest continues to accrue as provided by law until the full amount of the tax liability is paid.

Department of Revenue v. Joann Batzer and Robert Batzer, St. Louis Co. Cir. Ct., Case No. 11SL-MC08565.

b. On or about September 26, 2011, the St. Louis County Circuit Court entered a judgment against Batzer for unpaid taxes for the 2007 filing year as follows:

[Department of Revenue], under Section 143.902, RSMo, hereby certifies that the following assessment of individual income tax, interest, additions to tax, penalties, and fees have been made and become final [in the amount of \$1,004.96]. Interest continues to accrue as provided by law

until the full amount of the tax liability is paid.

Department of Revenue v. Robert Batzer and Joann Batzer, St. Louis Co. Cir. Ct., Case No. 11SL-MC12445.

13. In addition, the Division discovered that the Department of Revenue's records indicate that Batzer has not filed Missouri tax returns for the years 1988, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2005, 2006, 2007, 2008, 2009, and 2010.
14. After becoming aware of the tax lien filed on June 27, 2011, an Investigator for the Division sent a letter to Batzer dated July 27, 2011. Said letter requested additional documentation and information about the tax obligation. The letter further requested a response on or before August 17, 2011.
15. Batzer failed to provide a written response to the Division's July 27, 2011 letter by August 17, 2011, and failed to demonstrate a reasonable justification for the delay.
16. On September 15, 2011, an Investigator for the Division sent a second request letter to Batzer. This letter requested the same information as the previous letter and requested a response on or before October 6, 2011. Said letter further warned that failure to respond may result in the non-issuance of a producer license.
17. Batzer failed to provide a written response to the Division's September 15, 2011 letter by October 6, 2011, and failed to demonstrate a reasonable justification for the delay.
18. On March 28, 2012, a subpoena duces tecum ordering Batzer's appearance on April 17, 2012 was sent to Batzer by first class mail and certified mail. The correspondence sent by certified mail was not claimed. However, the correspondence sent by first class mail was not returned and therefore presumed delivered.
19. On April 17, 2012, the Subpoena Conference was held. Batzer failed to appear at the scheduled Subpoena Conference as ordered by the Director's subpoena.

CONCLUSIONS OF LAW

20. Section 375.141 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;

* * *

(14) Failing to comply with any administrative or court order directing payment of state or federal income tax.

21. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

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.

22. Section 324.010 provides:

All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to sections 209.319 to 209.339, sections 214.270 to 214.516, sections 256.010 to 256.453, section 375.014, sections 436.005 to 436.071, and chapter 317 and chapters 324 to 346 shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. The director of revenue shall, within ten business days of notification to the governmental entity issuing the professional license that the delinquency has been remedied or arrangements have been made to remedy such delinquency, send written notification to the licensee that the delinquency has been remedied. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

23. 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).

24. Batzer may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when he failed to disclose his delinquent tax obligations in response to Background Question No. 4, to wit:
- a. *Department of Revenue v. Joann Batzer and Robert Batzer*, St. Louis Co. Cir. Ct., Case No. 11SL-MC08565 (Certified Tax Lien in the amount of \$2,394.46 for unpaid taxes for the 2008 and 2009 filing years);
 - b. *Department of Revenue v. Robert Batzer and Joann Batzer*, St. Louis Co. Cir. Ct., Case No. 11SL-MC12445 (Certified Tax Lien in the amount of \$1,004.96 for unpaid taxes for the 2007 filing year).
25. Each failure to disclose is a separate and sufficient cause for refusal pursuant to § 375.141.1(1).
26. Batzer may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(2) because he violated a subpoena of the Director by failing to appear at the Subpoena Conference on April 17, 2012 as ordered by the Director's subpoena.
27. Batzer may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(2) because he failed to adequately respond to two inquiries from the Division, thereby violating 20 CSR 100-4.100(2)(A), a department regulation.
28. Each failure to provide an adequate response and failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
29. Batzer may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose his delinquent tax obligations in response to Background Question No. 4, to wit:
- a. *Department of Revenue v. Joann Batzer and Robert Batzer*, St. Louis Co. Cir. Ct., Case No. 11SL-MC08565 (Certified Tax Lien in the amount of \$2,394.46 for unpaid taxes for the 2008 and 2009 filing years);
 - b. *Department of Revenue v. Robert Batzer and Joann Batzer*, St. Louis Co. Cir. Ct., Case No. 11SL-MC12445 (Certified Tax Lien in the amount of \$1,004.96 for unpaid taxes for the 2007 filing year).
30. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause for refusal pursuant to § 375.141.1(3).

31. Batzer may be refused additional lines of authority for his individual insurance producer license pursuant to § 375.141.1(14) because he failed to comply with an administrative or court order directing payment of state income taxes, to wit:
- a. *Department of Revenue v. Joann Batzer and Robert Batzer*, St. Louis Co. Cir. Ct., Case No. 11SL-MC08565;
 - b. *Department of Revenue v. Robert Batzer and Joann Batzer*, St. Louis Co. Cir. Ct., Case No. 11SL-MC12445.
32. Each failure to comply with an administrative or court order directing payment of state income taxes is a separate and sufficient cause for refusal pursuant to § 375.141.1(14).
33. The Director has considered Batzer's history and all of the circumstances surrounding Batzer's Application. Granting Batzer's Application to add lines to his individual resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue additional lines to Batzer's individual resident insurance producer license.
34. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that application of **Robert Batzer** to add lines to his individual resident insurance producer license is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND DAY OF OCTOBER, 2012.




JOHN M. HUFF
DIRECTOR

NOTICE

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

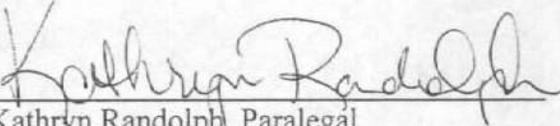
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 4th day of October, 2012 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular mail at the following address:

Robert Batzer
1621 June Drive
St. Louis, MO 63138

Certified No. 7009 3410 0001 9255 5740


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