State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
	)	Case No. 120405331C
Michael R. Fitkin,	)	
	)	
Renewal Applicant.	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On April 11, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew Michael R. Fitkin'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. Michael R. Fitkin ("Fitkin") is an individual residing in Missouri whose residence, business, and mailing address is 519 NE 5th Street, Apt. A, Blue Springs, Missouri 64014-6624.

2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") first issued Fitkin a Missouri resident insurance producer license (No. 0369239) on April 18, 2006. Fitkin has been continuously licensed as a Missouri insurance producer since April 18, 2006, and his license is set to expire April 18, 2012.

3. On March 23, 2011, the Kansas Commissioner of Insurance issued a Final Summary Order (Pursuant to K.S.A. 40-4909 and K.S.A. 77-537) which revoked Fitkin's Kansas nonresident insurance agent's license and ordered that Fitkin cease and desist from the sale, solicitation, or negotiation of insurance. *In the Matter of the Kansas Nonresident Insurance Agent's License of Michael R. Fitkin NPN #8769548,* Before the Commissioner of Insurance of the State of Kansas, Docket No. 4279-SO ("Kansas Revocation").

4. Fitkin never reported the Kansas Revocation to the Director of the Department as required by §375.141.6 RSMo Supp. 2011.[1]

5. On or about March 21, 2012, the Department received an electronic Uniform Application for Individual Insurance Producer License ("Renewal Application") from Fitkin.

6. In the section of the Renewal Application headed "Background Questions," Background Question #2 asks:

> Have you ever been named or involved as a party in an administrative proceeding including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?

7. Fitkin answered "No" to Background Question #2. Fitkin did not disclose the Kansas Revocation on his Renewal Application.

CONCLUSIONS OF LAW

8. 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;
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

[1] All statutory references are to the 2011 Supplement to the Revised Statutes of Missouri, unless otherwise indicated.

* * *

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.

9. 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. 1984).

10. Fitkin may be refused renewal of his resident insurance producer license pursuant to §375.141.1(1), because by answering "No" to Background Question #2, Fitkin intentionally provided materially incorrect, misleading, incomplete, or untrue information on his Renewal Application. Fitkin's answer to Background Question #2 was materially incorrect, misleading, incomplete, or untrue in that he had been involved as a party in a prior administrative proceeding in Kansas whereby the Kansas Insurance Commissioner revoked Fitkin's nonresident insurance agent's license and ordered that Fitkin cease and desist from the sale, solicitation, or negotiation of insurance. Such information is material because it appears Fitkin was attempting to conceal matters that may reflect negatively on his Renewal Application and provide grounds for refusal. *In the Matter of the Kansas Nonresident Insurance Agent's License of Michael R. Fitkin NPN #8769548,* Before the Commissioner of Insurance of the State of Kansas, Docket No. 4279-SO.

11. Fitkin may be refused renewal of his resident insurance producer license pursuant to §375.141.1(3), because by answering "No" to Background Question #2, Fitkin attempted to obtain a license through material misrepresentation or fraud. Fitkin's response to Background Question #2 was a material misrepresentation in that he had been involved as a party in a prior administrative proceeding in Kansas whereby the Kansas Insurance Commissioner revoked Fitkin's nonresident insurance agent's license and ordered that Fitkin cease and desist from the sale, solicitation, or negotiation of insurance. Such information is material because it appears Fitkin was attempting to conceal matters that may reflect negatively on his Renewal Application and provide grounds for refusal. *In the Matter of the Kansas Nonresident Insurance Agent's License of Michael R. Fitkin NPN #8769548,* Before the Commissioner of Insurance of the State of Kansas, Docket No. 4279-SO.

12. Fitkin may be refused renewal of his resident insurance producer license pursuant to §375.141.1(2), because by failing to report an administrative action taken against Fitkin in another jurisdiction (Kansas Revocation) with 30 days of the final disposition of the matter, Fitkin violated an insurance law, namely §375.141.6.

13. Fitkin may be refused a non-resident insurance producer license pursuant to §375.141.1(9), because another jurisdiction (Kansas) denied, suspended, or revoked Fitkin's insurance producer license, or its equivalent. *In the Matter of the Kansas Nonresident Insurance Agent's License of Michael R. Fitkin NPN #8769548,* Before the Commissioner of Insurance of the State of Kansas, Docket No. 4279-SO.

14. The Director has considered Fitkin's history and all of the circumstances surrounding Fitkin's Renewal Application and exercise his discretion in refusing to renew Fitkin's resident insurance producer license.

15. Renewing Fitkin's resident insurance producer license would not be in the public interest.

16. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license renewal application of Michael R. Fitkin is hereby REFUSED.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 17th DAY OF APRIL, 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, 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 12th day of April, 2012, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

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