State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Dana Charles Hutchison,	)	**Case No. 11-0927704C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE NONRESIDENT INSURANCE PRODUCER LICENSE

On February 1, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a nonresident insurance producer license to Dana Charles Hutchison. 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. Dana Charles Hutchison ("Hutchison") is an individual residing in Arizona.

2. On or about October 22, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hutchison's electronic nonresident insurance producer license application ("Application").

3. In his Application, Hutchison listed his business and mailing address as C/O Humana, 10400 N. 25th Ave., Phoenix, AZ 85021 and his residence address as 420 N. Alder Street, Gilbert, AZ 85233.

4. Background Question No. 2 of the Application asks whether the applicant has ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration.

5. Hutchison answered "No" to Question No. 2.

6. The Department previously issued Hutchison a nonresident insurance producer license on October 20, 2003. However, his license was revoked for tax non-compliance pursuant to § 324.010 RSMo (Supp. 2003) on July 23, 2004.

7. On November 3, 2010, the Consumer Affairs Division ("Division") sent Hutchison written correspondence to his business and mailing requesting Hutchison to confirm he is in good tax standing with the state of Missouri and to provide a letter of clearance by

November 25, 2010.

8. The Division's November 3, 2010 correspondence was not returned to the Department as undeliverable. Hutchison failed to respond to the Division's November 3, 2010 correspondence within 20 days or to demonstrate a reasonable justification for the delayed response.

9. On November 29, 2010, the Division sent Hutchison written correspondence to his residential address requesting Hutchison to confirm he was in good tax standing with the state of Missouri and to provide a letter of clearance by December 20, 2010.

10. The Division's November 29, 2010 correspondence was not returned to the Department as undeliverable. Hutchison failed to respond to the Division's November 29, 2010 correspondence within 20 days or to demonstrate a reasonable justification for the delayed response.

11. On December 22, 2010, the Division sent Hutchison written correspondence by certified mail to both his mailing/business address and residential address requesting Hutchison to confirm he was in good tax standing with the state of Missouri and to provide a letter of clearance by January 12, 2011.

12. Neither of the Division's December 22, 2010 letters was returned to the Department as undeliverable. Hutchison failed to respond to the Division's December 22, 2010 correspondence within 20 days or to demonstrate a reasonable justification for the delayed response.

13. Although Hutchinson did respond to the Division's January 4, 2011 and February 15, 2011 emails, Hutchinson did not timely respond to the Division's mailed inquiries, never confirmed he is in good tax standing with the state of Missouri, and did not provide the tax clearance letter as requested by the Division.

CONCLUSIONS OF LAW

14. Section 375.141 RSMo (Supp. 2010) 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[.]

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

> (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.

16. "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).

17. Section 324.010 RSMo (Supp. 2003) provided that the Director of the Missouri Department of Revenue send notice to any licensee who was delinquent in state taxes or who failed to file a tax return in the last three years. Unless the noncompliance is remedied, the law required the revocation of the license. § 324.010 RSMo (Supp. 2003); *see also Crum v. Vincent,* 493 F.3d 988, 991 (8th Cir. 2007).

18. 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).

19. Hutchison may be refused an insurance producer license pursuant to § 375.141.1(1) because he failed to disclose the revocation of his Missouri insurance producer license for tax non-compliance in response to Background Question No. 2 on the Application. Hence, Hutchison provided materially incorrect, misleading, incomplete or untrue information in his license Application. Such information is material in that Hutchison's prior revocation may reflect negatively on his Application, thereby affecting the Director's decision to issue a license.

20. Hutchison may be refused an insurance producer license pursuant to § 375.141.1(3) because he failed to disclose the revocation of his Missouri insurance producer license for tax non-compliance in response to Background Question No. 2 on the Application. Hence, Hutchison attempted to obtain a license through material misrepresentation or fraud. Such information is material in that it appears Hutchison is trying to conceal his prior insurance producer license revocation thereby attempting to induce the Director to rely on Hutchison's Application to issue a license.

21. The Director may refuse to issue a nonresident insurance producer license to Hutchison pursuant to § 375.141.1(2) because Hutchison violated a Missouri insurance regulation by failing to provide a response to the Division's November 3, 2010, November 29, 2010, and December 22, 2010 inquiries within 20 days or by demonstrating a reasonable justification for his delayed response as required by 20 CSR 100-4.100(2)(A). Each failure to timely respond to the Division's inquiries is a separate and sufficient ground to

refuse Hutchison a license.

22. The Director may refuse to issue a nonresident insurance producer license to Hutchison pursuant to § 375.141.1(2) because Hutchison violated a Missouri insurance regulation by failing to provide an adequate response to the Division's November 3, 2010, November 29, 2010, and December 22, 2010 inquiries as required by 20 CSR 100-4.100(2)(A). Hutchison failed to confirm he was in good tax standing with the state of Missouri and failed to provide the tax clearance letter. Each failure to adequately respond to the Division's inquiries is a separate and sufficient ground to refuse Hutchison a license.

23. Hutchison's previous Missouri nonresident insurance producer license was revoked for tax non-compliance. However, when he applied for a new Missouri license, Hutchison failed to disclose the revocation on his Application. Furthermore, Hutchison failed to respond to three Division inquiries within 20 days or demonstrate a reasonable justification for the delay. Also, Hutchison failed to provide an adequate response to the Division's inquiries asking him to confirm he was in good tax standing with the state of Missouri and to provide a tax clearance letter.

24. The Director has considered Hutchison's history and all of the circumstances surrounding his application. Granting Hutchison a nonresident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse Hutchison's nonresident insurance producer license.

25. The order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the nonresident insurance producer license application of **Dana Charles Hutchison** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 2ND **DAY OF** FEBRUARY **, 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 3rd day of February, 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 addresses:

Dana Charles Hutchison
c/o Humana
10400 N. 25th Ave.
Phoenix, AZ 85021

Certified No. 7009 3410 0001 8931 2547

Dana Charles Hutchison
420 N. Alder St.
Gilbert, AZ 85233

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