State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
	)	**Case No. 10-0428447C**
Diana B. Hutson,	)	
	)	
Applicant.	)	
Serve at:	)	
	)	
7127 Mexico Road, #112	)	
St. Peters, Missouri 63376	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On August 6, 2010, Tamara W. Kopp, Senior Enforcement Counsel and counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew Diana B. Hutson'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 summary order:

FACTUAL BACKGROUND

1. Diana B. Hutson ("Hutson") is an individual residing in Missouri, whose mailing address of record is 7127 Mexico Road, # 112, St. Peters, Missouri 63376.

2. Hutson was first licensed by the Department of Insurance, Financial Institutions and Professional Registration ("Department") as an insurance producer on August 14, 2000 (License Numbers PR115325 & 5073078) until her license expired on August 14, 2008.

3. Via letter dated August 25, 2008, the Department received a complaint concerning Hutson from Monumental Life Insurance Company ("Monumental"). Monumental alleged misconduct by Hutson and account shortages while she was employed with Monumental.

4. On September 8, 2008, the Department's Consumer Affairs Division Investigations Section Special Investigator Dennis Fitzpatrick mailed a letter to Hutson at 4420 Parker Road, Florissant, Missouri 63033. The September 8, 2008 letter required Hutson to provide a written response to the Department on or before September 29,

2008. The September 8, 2008 letter was not returned to the Department as undeliverable. Hutson did not respond to the September 8, 2008 letter by September 29, 2008. Hutson did not contact the Department to demonstrate a reasonable justification for a delayed response.

5. After Hutson failed to respond to the September 8, 2008 letter, on October 2, 2008, Investigator Fitzpatrick mailed a second letter to Hutson at the 4420 Parker Road, Florissant, Missouri address. Investigator Fitzpatrick advised Hutson that her license expired on August 14, 2008, that the Monumental complaint was posted to her licensing file, and that the Investigations Section was closing the file. The November 14, 2008 letter was not returned to the Department as undeliverable.

6. On November 14, 2008, Hutson submitted a Request for License Renewal ("Renewal Request") to the Department. On the Renewal Request, Hutson listed her Legal/Residence/Mailing address as 1410 Faris, St. Louis, Missouri 63130.

7. On November 24, 2008, Investigator Fitzpatrick mailed a letter to Hutson at the 1410 Faris Avenue, St. Louis, Missouri 63130 address she provided on her Renewal Request, concerning the Monumental complaint. The November 24, 2008 letter required that Hutson provide a written response on or before December 16, 2008. The November 24, 2008 letter was not returned to the Department as undeliverable. Hutson did not respond to the November 24, 2008 letter by December 16, 2008. Hutson did not contact the Department to demonstrate a reasonable justification for a delayed response.

8. On December 19, 2008, Investigator Fitzpatrick mailed a second letter to Hutson at the 1410 Faris Avenue, St. Louis, Missouri 63130 address she provided on her Renewal Request, concerning the Monumental complaint. The December 19, 2008 letter required that Hutson provide a written response on or before January 9, 2009. The December 29, 2008 letter was not returned to the Department as undeliverable. Hutson did not respond to the December 19, 2008 letter by January 9, 2009. Hutson did respond via letter dated January 12, 2009, and received by the Department on January 15, 2009. However, Hutson's January 12, 2009 letter did not demonstrate a reasonable justification for a delayed response. Hutson's January 12, 2009 letter provided a header address of 7127 Mexico Road, # 112, St. Peters, Missouri 63376.

9. The Director of the Department issued a subpoena duces tecum that ordered Hutson to appear at the Department's Jefferson City, Missouri office on March 3, 2009, and produce certain documents related to her insurance business. The subpoena was mailed via certified mail to Hutson at 1410 Faris Avenue, St. Louis, Missouri 63130. The PS Form 3811, or "green card" certified mail receipt was returned to the Department with a signature indicating it was signed for by someone named "William."

10. On March 2, 2009, Hutson contacted the Department and asked that the subpoena conference be rescheduled. Investigator Fitzpatrick agreed to reschedule the

subpoena conference.

11. On March 9, 2009, Investigator Fitzpatrick mailed a letter to Hutson at 1410 Faris Avenue, Florissant, Missouri 63130, rescheduling the subpoena conference for March 24, 2009. The letter was not returned to the Department as undeliverable. Hutson did not appear at the March 24, 2009 subpoena conference.

12. After Hutson failed to appear at the March 24, 2009 subpoena conference, on March 25, 2009, Investigator Fitzpatrick mailed a letter to Hutson at 7127 Mexico Road, # 112, St. Peters, Missouri 63376, rescheduling the subpoena conference for April 14, 2009. The letter was not returned to the Department as undeliverable.

13. Hutson appeared for the April 14, 2009 subpoena conference. Hutson did not produce the documents required by the subpoena duces tecum at the subpoena conference. During the subpoena conference, Hutson admitted to not timely depositing premiums according to Monumental procedures.

14. On August 19, 2009, Investigator Fitzpatrick mailed a letter to Hutson at her St. Peters, Missouri address, requiring that she provide certain documentation that was previously required by the subpoena duces tecum and that Hutson had agreed to provide during the subpoena conference. The August 19, 2009 letter required a response from Hutson on or before September 9, 2009. The August 19, 2009 letter was not returned to the Department as undeliverable. Hutson did not respond or produce the required documentation by September 9, 2009; nor did she contact the Department to demonstrate a reasonable justification for a delayed response.

CONCLUSIONS OF LAW

15. Section 375.141., RSMo (Supp. 2009), 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:
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> * * *
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> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
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> * * *
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
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> * * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

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

> (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.

17. Section 374.210.2, RSMo (Supp. 2009), provides, in part:

> * * *
>
> The director may also suspend, revoke or refuse any license or certificate of authority issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

18. The principal purpose of § 375.141, RSMo, 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. Hutson may be refused renewal of her insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2009), for violating regulation 20 CSR 100-4.100(2)(A) by failing to timely respond to at least four inquiries from the Department's Consumer Affairs Division.

20. Hutson may be refused renewal of her insurance producer license pursuant to § 375.141.1(4), RSMo (Supp. 2009), for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. During the subpoena conference, Hutson admitted that she failed to timely deposit customer funds according to Monumental procedures.

21. Hutson may be refused renewal of her insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2009), for demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere by failing to timely deposit customer funds according to Monumental procedures.

22. Hutson may be refused renewal of her insurance producer license pursuant to §§ 374.210.2 and 375.141.1(2), RSMo (Supp. 2009), for failing to produce records or

otherwise obey the subpoena issued by the Director. Hutson failed to respond in writing to at least four written inquiries by the Consumer Affairs Division. She failed to appear at the Department office when she was ordered to do so by a subpoena. When she finally did appear when subpoenaed, Hutson failed to produce documentation as ordered by the subpoena. Each of Hutson's failures is a ground to refuse to renew her insurance producer license pursuant to §§ 374.210.2 and 375.141.1(2), RSMo (Supp. 2009).

23. For all of the reasons given in this Petition, the Director has considered Hutson's history and all of the circumstances surrounding Hutson's Renewal Request and exercised his discretion in summarily refusing to renew Hutson's insurance producer license.

24. Renewing Hutson's insurance producer license would not be in the public interest.

25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license renewal application of **Diana B. Hutson** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10TH **DAY OF** ~~AUGUST~~ SEPTEMBER**, 2010.**

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 13th day of September, 2010, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 7007 0710 0002 2055 2657.

Diana B. Hutson
7127 Mexico Road, #112
St. Peters, Missouri 63376

Kathryn Randolph