



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JOHN R. AKERS,

Applicant.

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Case No. 13-0415290C

ORDER REFUSING TO RENEW AN INSURANCE PRODUCER LICENSE

On July 3, 2013, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause for refusing to renew John R. Akers' 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. John R. Akers, ("Akers") is a Missouri resident with a residential address of 508 Goode Road, Grandview, Missouri 64030.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") received Akers' "Uniform Application for Individual Producer License/Registration" on or about August 12, 2010 ("2010 Application").
3. The Department issued an individual non-resident insurance producer license (No. 8053151) to Akers on or about August 12, 2010. Said license expired on or about August 12, 2012.
4. The "Attestation" section of the 2010 Application states in relevant part:
 1. I hereby certify that, under penalty of perjury, 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.
5. Akers accepted the "Attestation" section of the 2010 Application.
6. Background Question No. 2 of the 2010 Application inquires:

Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?

7. Akers marked "No" in response to Background Question No. 2.
8. To the contrary, the Consumer Affairs Division ("Division"), through their investigation, discovered the following administrative proceedings regarding Akers' Nebraska insurance producer license:
 - a. A Consent Order entered by the Nebraska Department of Insurance on October 9, 2009. The Consent Order shows that the Nebraska Department of Insurance ordered Akers to pay an administrative fine in the amount of one thousand dollars within thirty (30) days of the Consent Order in response to Akers' failure to notify the Nebraska Department of Insurance of his change of business address within thirty (30) days of the change on three (3) separate occasions. Akers' conduct constituted a violation of Neb. Rev. Stat. §§ 44-4054(8). *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (October 9, 2009).
 - b. On November 23, 2009, the Nebraska Department of Insurance entered an Order Revoking License that revoked Akers' insurance producer license for his failure to remit one thousand dollars in accordance the terms of the Consent Order entered in Cause No. A-1848 on October 9, 2009. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009).
9. The Department received Akers' "Uniform Application for Individual Producer License Renewal/Continuation" on or about February 11, 2013 ("2013 Application"). This application is for an individual resident insurance producer license.
10. The "Attestation" section of the 2013 Application states in relevant part:
 1. I hereby certify that, under penalty of perjury, 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. Akers signed the "Attestation" section of the 2013 Application.
12. Background Question No. 2 of the 2013 Application inquires as follows:

Have you 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?

“Involved” means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, 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. Akers marked “Yes” in response to Background Question No. 2, and included the following attachments:

- a. A copy of the Consent Order entered by the Nebraska Department of Insurance on October 9, 2009 that ordered Akers to pay an administrative fine in the amount of one thousand dollars. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (October 9, 2009).
- b. A copy of check number 5124 executed to the order of “Nebraska Department of Insurance” in the amount of one thousand dollars. This check is dated “12-18-12.”
- c. An undated letter from Akers explaining the circumstances that led to the 2009 Nebraska Consent Order. The letter further explained Akers’ inability to pay the administrative fine within thirty (30) days, in accordance with the 2009 Nebraska Consent Order, which resulted in the suspension of his license.¹

¹ Although Akers’ letter states that his license was suspended, the Nebraska Department of Insurance actually revoked Akers’ license in response to Akers’ failure to pay the administrative fine assessed in the October 9, 2009 Consent Order. See *Order Revoking License, State of Nebraska Department of Insurance v. John K. Akers*, Cause No. A-1848 (November 23, 2009). Akers neglected to provide a copy of the Order Revoking License.

14. On March 6, 2013, the Division sent a letter to Akers requesting written explanations and certified copies of orders and/or agreements entered into with regulatory agencies in Nebraska and Kansas. The letter further requested a detailed rationale for Akers' failure to provide such documentation with his 2013 Application.
15. In response, Akers provided written descriptions regarding administrative actions taken against him in Nebraska and Kansas, but failed to provide certified copies of said actions. Akers also provided an unsigned copy of the Kansas Consent Agreement and Final Order (which was later entered on March 26, 2013) and a written description stating that he surrendered his Oklahoma non-resident license after his resident license was revoked.
16. Through their investigation, the Division discovered the following administrative actions taken against Akers that he failed to disclose on his 2013 Application:
 - a. On November 23, 2009, the Nebraska Department of Insurance entered an Order Revoking License that revoked Akers' insurance producer license for his failure to remit one thousand dollars in accordance the terms of the Consent Order entered in Cause No. A-1848 on October 9, 2009. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009).
 - b. On August 21, 2012, the Kansas Insurance Department entered a Summary Order revoking Akers' resident insurance agent's license. The Commissioner of the Kansas Insurance Department found that grounds exist to revoke Akers' resident insurance agent license pursuant to K.S.A. 40-4909(a)(1) because Akers provided incorrect, misleading, incomplete or untrue information in his license application; pursuant to K.S.A. 40-4909(a)(3) because Akers obtained his Kansas license through misrepresentation of his licensing record; pursuant to K.S.A. 40-4909(a)(9) because Akers' insurance agent license was revoked in Nebraska; pursuant to K.S.A. 40-4909(a)(8) because Akers was untrustworthy; and pursuant to K.S.A. 40-4909(a)(2)(A) because Akers failed to notify the Commissioner of the Kansas Insurance Department of his change of address within thirty (30) days, in violation of K.A.R. §40-7-9(f). *In the Matter of the Kansas Resident Insurance Agent's License of John R. Akers*, Docket No. 4468-SO (August 21, 2012).
17. Through their investigation, the Division also discovered the following administrative action taken against Akers after he submitted his 2013 Application to the Department:
 - a. On March 26, 2013, the Kansas Insurance Department entered a Consent Agreement and Final Order denying Akers' resident insurance agent's license application for the grounds relied upon in the August 21, 2012 Kansas Summary Order, which revoked Akers' prior license. *In the Matter of the*

CONCLUSIONS OF LAW

18. Section 375.141 RSMo (Supp. 2012)² states, in pertinent 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 licensing 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[.]
19. 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).
20. Renewal of Akers' individual resident insurance producer license may be refused 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 and failed to provide the required documentation regarding his involvement in administrative proceedings in response to Background Question No. 2 on his 2010 Application, to wit:
- a. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (October 9, 2009) (Consent Order ordering Akers to pay an administrative fine in the amount of one thousand dollars within thirty (30) days of the Consent Order in response to Akers' failure to notify the Nebraska Department of Insurance of his change of business address within thirty (30) days of the change on three (3) separate occasions in violation of Neb. Rev. Stat. §§ 44-4054(8)).

² All statutory references are to the RSMo (2000) as updated by the 2012 Supplement, unless otherwise indicated.

- b. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009) (Revocation for failure to remit one thousand dollars in accordance with the October 9, 2009 Consent Order issued for failure to report three (3) separate changes of address).
21. Renewal of Akers' individual resident insurance producer license may be refused 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 and failed to provide the required documentation regarding his involvement in administrative proceedings in response to Background Question No. 2 on his 2013 Application, to wit:
 - a. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009) (Revocation for failure to remit one thousand dollars in accordance with the October 9, 2009 Consent Order issued for failure to report three (3) separate changes of address).
 - b. *In the Matter of the Kansas Resident Insurance Agent's License of John R. Akers*, Docket No. 4468-SO (August 21, 2012) (Revocation for providing incorrect, misleading, incomplete or untrue information in his license application; obtaining his Kansas insurance agent license through misrepresentation of his licensing record; having his insurance agent license revoked in Nebraska; untrustworthiness; and failing to notify the Commissioner of the Kansas Insurance Department of his change of address within thirty (30) days).
22. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(1) because he intentionally provided misleading information on his 2013 Application when he attached a copy of the Consent Order entered against him by the Nebraska Department of Insurance on October 9, 2009 that ordered Akers to pay an administrative fine in the amount of one thousand dollars, a copy of a check executed to the order of "Nebraska Department of Insurance" in the amount of one thousand dollars, and a letter explaining that his Nebraska producer license was suspended due to his inability to pay the administrative fine within thirty (30) days. Akers failed to mention the Order Revoking License entered against him by the Nebraska Department of Insurance on November 23, 2009 that *revoked* Akers' producer license for his failure to pay the administrative fine within thirty (30) days. Akers intentionally provided limited insight to the full spectrum of his administrative history in Nebraska for the purpose of misleading the Department.
23. Each instance of intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application is a separate and sufficient cause to refuse renewal of Akers' individual resident insurance producer license pursuant to § 375.141.1(1).

24. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(2) because he violated an insurance law of another state, namely Neb. Rev. Stat. §§ 44-4054(8), when he failed to inform the Nebraska Department of Insurance of his change of address on three (3) separate occasions. *See State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (October 9, 2009).
25. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(2) because he violated an order of an insurance commissioner of another state, namely the October 9, 2009 Consent Order issued by the Nebraska Department of Insurance, when he failed to remit one thousand dollars within thirty (30) days in accordance with the Consent Order. *See State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009).
26. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(2) because he violated an insurance law of another state, namely K.A.R. §40-7-9(f), when he failed to notify the Commissioner of the Kansas Insurance Department of his change of address within thirty (30) days of the occurrence. *See In the Matter of the Kansas Resident Insurance Agent's License of John R. Akers*, Docket No. 4468-SO (August 21, 2012).
27. Each violation of another state's insurance laws or the orders of their insurance commissioners is a separate and sufficient cause to refuse renewal of Akers' individual resident insurance producer license pursuant to § 375.141.1(2).
28. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose and failed to provide the required documentation regarding prior administrative actions in response to Background Question No. 2 on his 2010 Application, to wit:
 - a. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (October 9, 2009) (Consent Order ordering Akers to pay an administrative fine in the amount of one thousand dollars within thirty (30) days of the Consent Order in response to Akers' failure to notify the Nebraska Department of Insurance of his change of business address within thirty (30) days of the change on three (3) separate occasions in violation of Neb. Rev. Stat. §§ 44-4054(8)).
 - b. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009) (Revocation for failure to remit one thousand dollars in accordance with the October 9, 2009 Consent Order issued for failure to report three (3) separate changes of address).

29. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he failed to disclose and failed to provide the required documentation regarding prior administrative actions in response to Background Question No. 2 on his 2013 Application, to wit:
- a. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009) (Revocation for failure to remit one thousand dollars in accordance with the October 9, 2009 Consent Order issued for failure to report three (3) separate changes of address).
 - b. *In the Matter of the Kansas Resident Insurance Agent's License of John R. Akers*, Docket No. 4468-SO (August 21, 2012) (Revocation for providing incorrect, misleading, incomplete or untrue information in his license application; obtaining his Kansas insurance agent license through misrepresentation of his licensing record; having his insurance agent license revoked in Nebraska; untrustworthiness; and failing to notify the Commissioner of the Kansas Insurance Department of his change of address within thirty (30) days).
30. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud when he misrepresented his prior administrative actions with the Nebraska Department of Insurance on his 2013 Application. With his 2013 Application, Akers attached a copy of the Consent Order entered against him by the Nebraska Department of Insurance on October 9, 2009 that ordered Akers to pay an administrative fine in the amount of one thousand dollars, a copy of a check executed to the order of "Nebraska Department of Insurance" in the amount of one thousand dollars, and a letter explaining that his Nebraska producer license was suspended due to his inability to pay the administrative fine within thirty (30) days. Akers failed to mention the Order Revoking License entered against him by the Nebraska Department of Insurance on November 23, 2009 that *revoked* Akers' producer license for his failure to pay the administrative fine within thirty (30) days. The limited facts provided by Akers materially misrepresented Akers' administrative history with the Nebraska Department of Insurance and the current status of Akers' Nebraska producer license. Such material misrepresentations were made for the purpose of inducing the Department to issue Akers a producer license.
31. Each attempt to obtain a license through material misrepresentation or fraud is a separate and sufficient cause to refuse renewal of Akers' individual resident insurance producer license pursuant to § 375.141.1(3).
32. Renewal of Akers' individual resident insurance producer license may be refused pursuant to § 375.141.1(9) because his insurance producer license, or its equivalent, was revoked or denied in both Nebraska and Kansas, to wit:

- a. *State of Nebraska Department of Insurance v. Akers*, Cause No. A-1848 (November 23, 2009) (Revocation for failure to remit one thousand dollars in accordance with the October 9, 2009 Consent Order issued for failure to report three (3) separate changes of address).
 - b. *In the Matter of the Kansas Resident Insurance Agent's License of John R. Akers*, Docket No. 4468-SO (August 21, 2012) (Revocation for providing incorrect, misleading, incomplete or untrue information in his license application; obtaining his Kansas insurance agent license through misrepresentation of his licensing record; having his insurance agent license revoked in Nebraska; untrustworthiness; and failing to notify the Commissioner of the Kansas Insurance Department of his change of address within thirty (30) days).
 - c. *In the Matter of Application for Kansas Resident Insurance Agent License of John R. Akers*, Docket No. 4513-SO (March 26, 2013) (Refusal of application for a resident insurance agent license based on the grounds relied upon in the August 21, 2012 Kansas Summary Order, which was entered a mere forty-four (44) days prior to the instant application).
33. Each revocation or denial of an insurance producer license, or its equivalent, in another state is a separate and sufficient cause to refuse renewal of Akers' individual resident insurance producer license pursuant to § 375.141.1(9).
 34. The Director has considered Akers' history and all of the circumstances surrounding Akers' 2013 Application. Renewing Akers' individual resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to renew Akers' individual resident insurance producer license.
 35. This Order is in the public's interest.

ORDER

IT IS THEREFORE ORDERED that the individual resident insurance producer license renewal application of **John R. Akers** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 9th DAY OF JULY, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

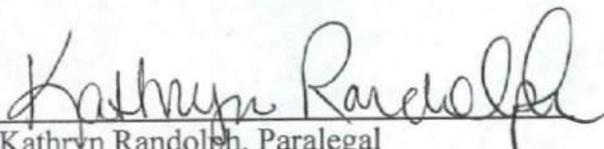
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 11th day of July, 2013 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular mail and UPS at the following addresses:

John R. Akers
508 Goode Road
Grandview, Missouri 64030

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