FINAL ORDER EFFECTIVE 06-02-16

State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JAMES EARL BANDY,	)	**Case No. 151013468C**
	)	
Renewal Applicant.	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On March 11, 2016, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the resident insurance producer license of James Earl Bandy. After reviewing the Petition, 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. James Earl Bandy ("Bandy") is a Missouri resident with a business, residential, and mailing address of 787 West Kingsway Drive, Springfield, Missouri 65810-1692.

2. On March 19, 2004, the Department of Insurance, Financial Institutions and Professional Registration ("Department") issued to Bandy a resident insurance producer license, number 0326367, which it has renewed biennially and which is currently set to expire on March 19, 2016.

3. On or about March 9, 2016, the Department received Bandy's Uniform Application for Individual Producer License Renewal/Continuation ("Application").

4. On or about February 13, 2007, L.P.[1] applied for a critical illness insurance policy with Assurity Life Insurance Company, a Nebraska corporation ("Assurity"), through Jonathan E. Speer ("Speer"), whom Bandy described as his "business partner[.]"[2]

5. On or about September 18, 2007, R.W. applied for a critical illness insurance policy with Assurity through Speer.

---

[1] Consumer identities are protected by the use of initials instead of full names.

[2] Speer's Missouri resident insurance producer license expired June 14, 2015. In a September 25, 2015 message to the Department, Bandy indicated he purchased Speer's book of business in 2014. Speer confirmed the transfer of business during the course of the Department's investigation.

6. On or about October 16, 2007, J.S. applied for a critical illness insurance policy with Assurity through Speer.

7. On or about February 5, 2008, C.R. applied for a critical illness insurance policy with Assurity through Speer.

8. On or about August 26, 2014, Bandy submitted to Washington National Insurance Company, an Indiana corporation ("Washington National"), a health insurance policy application on behalf of L.P. and purportedly electronically signed by L.P.

9. As part of the Washington National health insurance policy application for L.P., Bandy selected three security questions: "City of Birth[,]" "Grade school attended[,]" and "Father's place of birth[.]"

10. Also as part of the Washington National health insurance policy application for L.P., Bandy specified a personal identification number ("PIN") that consisted of L.P.'s birth year.

11. L.P. did not authorize or intend to submit any health insurance policy application to Washington National on or about August 26, 2014.

12. On or about August 26, 2014, Bandy also submitted to Washington National a health insurance policy application on behalf of J.S. and purportedly electronically signed by J.S.

13. As part of the Washington National health insurance policy application for J.S., Bandy selected three security questions: "City of Birth[,]" "Grade school attended[,]" and "Father's place of birth[.]"

14. Also as part of the Washington National health insurance policy application for J.S., Bandy specified a PIN that consisted of J.S.'s birth year.

15. J.S. did not authorize or intend to submit any health insurance policy application to Washington National on or about August 26, 2014.

16. On or about August 26, 2014, Bandy also submitted to Washington National a health insurance policy application on behalf of C.R. and purportedly electronically signed by C.R.

17. As part of the Washington National health insurance policy application for C.R., Bandy selected three security questions: "City of Birth[,]" "Grade school attended[,]" and "Father's place of birth[.]"

18. Also as part of the Washington National health insurance policy application for C.R., Bandy specified a PIN that consisted of C.R.'s birth year.

19. C.R. did not authorize or intend to submit any health insurance policy application to Washington National on or about August 26, 2014.

20. Each of the Washington National health insurance policy applications submitted by Bandy purportedly on behalf of L.P., J.S., and C.R. contained a certification by Bandy that he "explained to the applicant all exceptions and limitations pertaining to the insurance applied for," and Bandy falsely electronically signed each such certification on August 26, 2014.

21. Bandy had not discussed the policy applications with L.P., J.S., or C.R.

22. On or before November 10, 2014, Bandy created an email account in L.P.'s full name at Yahoo.com and sent a message to Assurity stating, in relevant part, "Please cancel my policy ... as of the date on this letter & refund any paid premium beyond that date." The message contained L.P.'s purported signature.

23. L.P. did not authorize the cancellation of her Assurity critical illness insurance policy on or about November 10, 2014.

24. On or before November 10, 2014, Bandy created an email account in J.S.'s full name, plus a number, at Yahoo.com and sent a message to Assurity stating, in relevant part, "Please cancel my policy ... as of the date on this letter & refund any paid premium beyond that date." The message contained J.S.'s purported signature.

25. J.S. did not authorize the cancellation of his Assurity critical illness insurance policy on or about November 10, 2014.

26. On or before November 10, 2014, Bandy created an email account in C.R.'s full name, plus a number, at Yahoo.com and sent a message to Assurity stating, in relevant part, "Please cancel my policy ... as of the date on this letter & refund any paid premium beyond that date." The message contained C.R.'s purported signature.

27. C.R. did not authorize the cancellation of her Assurity critical illness insurance policy on or about November 10, 2014.

28. On or before November 26, 2014, Bandy created an email account in R.W.'s full name, plus a number, at Yahoo.com and sent a message to Assurity stating, in relevant part, "Cancel my policy ... as of the date on this letter. Refund any unused premium & mail to the address on record." The message contained R.W.'s purported signature.

29. R.W. did not authorize the cancellation of his Assurity critical illness insurance policy on or about November 26, 2014.

30. J.B., a Missouri resident, was Bandy's client since 2012 on whose behalf Bandy serviced a health insurance policy issued by Washington National.

31. Bandy told J.B. that Bandy would transmit J.B.'s Washington National health insurance policy claims to the insurer and assist in processing them.

32. Trusting Bandy, J.B. provided him with the records and information necessary to file claims for his daughter's healthcare.

33. On August 1, 2014, in response to J.B.'s concerns about having received no claim payments, Bandy wrote to J.B. that a Vice President of Washington National would personally process J.B.'s claims and deposit claim payments into Bandy's weekly compensation, at which point Bandy would "cut [] a check … on a weekly basis until the matter is resolved." Bandy blamed Washington National's nonpayment on "all these insurance companies [being] hyper vigilant with HIPAA compliance right now" and "the passing of the healthcare reform[.]"

34. On August 4, 2014, Bandy falsely wrote to J.B. that Washington National had paid two charges on an invoice for healthcare services rendered February 11, 2013.

35. Bandy gave J.B. approximately $385.00.

36. Nothing in J.B.'s insurance policy specified the payment of approximately $385.00, nor was there an applicable filing regarding the payment of approximately $385.00.

37. No Vice President of Washington National personally processed J.B.'s insurance policy claims, nor did Washington National deposit any claim payments into Bandy's weekly compensation.

38. As of August 6, 2014, Washington National had not even received the above-referenced claims with respect to J.B.'s insurance policy and his daughter's healthcare.

39. Bandy admitted to the Department that he "did not answer all questions honestly" when asked about the J.B. claims by Washington National's investigator, and that "it was not true that [Bandy] had a VP working on his claims[.]"

40. Bandy further admitted to the Department with regard to the critical illness insurance policy terminations that "the e mail addresses [] used to send the cancellations w[]ere made up" because he "still had an active agent contract with Assurity & did not want to cause waves with them since [he] was replacing their product."

41. On June 19, 2014, Bandy submitted a health insurance policy application to Washington National bearing M.C.'s purported electronic signature.

42. On June 19, 2014, Bandy also submitted a health insurance policy application to Washington National bearing S.D.'s purported electronic signature.

43. On June 19, 2014, Bandy also submitted a health insurance policy application to Washington National bearing T.D.'s purported electronic signature.

44. On June 19, 2014, Bandy also submitted a health insurance policy application to Washington National bearing J.H.'s purported electronic signature.

45. On June 19, 2014, Bandy also submitted a health insurance policy application to Washington National bearing D.R.'s purported electronic signature.

46. On September 17, 2014, Bandy submitted a health insurance policy application to Washington National bearing D.A.'s purported electronic signature.

47. On September 17, 2014, Bandy also submitted a health insurance policy application to Washington National bearing T.H.'s purported electronic signature.

48. On September 17, 2014, Bandy also submitted a health insurance policy application to Washington National bearing J.P.'s purported electronic signature.

49. On September 26, 2014, Bandy submitted a health insurance policy application to Washington National bearing R.M.'s purported electronic signature.

50. Bandy had not personally discussed any of the Washington National health insurance policy applications referenced in the preceding nine paragraphs with M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., or R.M., nor did any of them authorize Bandy to electronically sign their name on any of the applications.

51. Each of the Washington National health insurance policy applications for M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M. contained a certification by Bandy that he "ha[d] explained to the applicant all exceptions and limitations pertaining to the insurance applied for, including any concerning pre-existing conditions."

JURISDICTION AND LEGAL AUTHORITY FOR REFUSAL

52. Section 375.141.1, RSMo (Supp. 2013)[3] provides, in relevant part:

> 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:
>
> * * *
>
> (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] All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement.

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

* * *

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

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

* * *

(10) Signing the name of another to an application for insurance or to any document related to an insurance transaction without authorization[.]

53. Section 375.144, an insurance law, provides:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

(1) Employ any deception, device, scheme, or artifice to defraud;

(2) As to any material fact, make or use any misrepresentation, concealment, or suppression;

(3) Engage in any pattern or practice of making any false statement of material fact; or

(4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

54. Section 375.934, an insurance law, provides:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

55. Section 375.936, an insurance law, provides in relevant part:

> Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance:
>
> * * *
>
> (7) "Misrepresentation in insurance applications", making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, agency, broker or other person[.]

56. Section 375.991, an insurance law, provides in relevant part:

> 1. As used in sections 375.991 to 375.994, the term "statement" means any communication, notice statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of damages, bills for services, diagnosis, prescription, hospital or doctor records, x-rays, test results or other evidence of loss, injury or expense.
>
> 2. For the purposes of sections 375.991 to 375.994, a person commits a "fraudulent insurance act" if such person knowingly presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, purported insurer, broker, or any agent thereof, any oral or written statement including computer generated documents as part of, or in support of, an application for the issuance of, or the rating of, an insurance policy for commercial or personal insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance, which such person knows to contain materially false information concerning any fact material thereto or if such person conceals, for the purpose of misleading another, information concerning any fact material thereto.

57. Section 379.356.1, an insurance law, provides in relevant part:

> [N]o insurance producer shall pay, allow, give, directly or indirectly, ... after insurance has been effected, ... any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings.

CAUSE FOR ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

58. Bandy engaged in the unfair trade practice of misrepresentation in insurance applications as defined in § 375.936(7). Bandy made false statements or misrepresentations on or

relative to Washington National health insurance policy applications purportedly on behalf of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M. for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, agency, broker or other person, namely Washington National.

59. Bandy committed the unfair trade practice of misrepresentation in insurance applications in conscious disregard of §§ 375.930 to 375.948, or with such frequency as to indicate a general business practice to engage in that type of conduct, in violation of § 375.934.

60. Therefore, the Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy committed the unfair trade practice of misrepresentation in insurance applications, as set forth in § 375.936(7), in violation of § 375.934.

61. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.144(1), when, in connection with the solicitation or negotiation of Washington National health insurance policies purportedly on behalf of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M., Bandy employed deception, a scheme, or an artifice to defraud, by submitting policy applications that purported to be authorized by the consumers but actually were not.

62. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.144(2) when, in connection with the solicitation or negotiation of Washington National health insurance policies purportedly on behalf of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M., Bandy misrepresented the material fact of the consumers' desire for insurance when in fact they did not desire the policies, or misrepresented the material fact that he had personally explained the terms and conditions of the Washington National health insurance policies purportedly sought.

63. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.144(2), when, in connection with the solicitation or negotiation of Washington National health insurance policies purportedly on behalf of L.P., J.S., and C.R., he misrepresented to Assurity that those consumers wanted to cancel their Assurity critical illness policies.

64. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.144(3) when, in connection with the solicitation or negotiation of Washington National health insurance policies purportedly on behalf of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M., Bandy engaged in a pattern or practice of making false statements of material fact, specifically the material fact of the consumers' desire for insurance when in fact they did not desire the policies, or the material fact that he had personally explained the terms and conditions of the Washington National health insurance policies purportedly sought.

65. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.144(2), when, in connection with the solicitation or negotiation of Washington National health insurance policies purportedly on behalf of L.P., J.S., and C.R., he engaged in a pattern or practice of falsely stating to Assurity that those consumers wanted to cancel their Assurity critical illness policies.

66. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.144(4) when, in connection with the solicitation or negotiation of Washington National health insurance policies purportedly on behalf of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M., Bandy engaged in an act, practice, or course of business which operated as fraud or deceit by applying for health insurance coverage not actually sought by the consumers.

67. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 379.356.1 when, after J.B.'s insurance had been effected, he gave J.B. approximately $385.00, which payment was not specified in the policy of insurance or any applicable filings.

68. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2) because Bandy violated an insurance law, specifically § 375.991 when he, as an agent of Washington National, committed a fraudulent insurance act by knowingly presenting a statement to J.B., regarding the claims for payment or other benefits for J.B.'s daughter's health care pursuant to J.B.'s policy, which Bandy knew contained materially false information, specifically that a Washington National Vice President was processing the claims and that at least some of the claims had been paid.

69. Each time Bandy violated an insurance law constitutes a separate and sufficient cause to refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(2).

70. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(5) because Bandy intentionally misrepresented to Washington National the terms of the health insurance policy applications he submitted purportedly on behalf of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M., specifically by electronically signing the applications on behalf of those consumers although they did not actually desire or request such policies.

71. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(5) because Bandy intentionally misrepresented to Assurity the terms – and specifically, the terminations – of the critical illness insurance policies of L.P., R.W., J.S., and C.R., although they did not actually want to terminate their Assurity policies.

72. Each time Bandy intentionally misrepresented the terms of an actual or proposed insurance contract or application for insurance constitutes a separate and sufficient cause to refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(5).

73. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(7) because Bandy admitted that he committed insurance fraud by telling J.B. that his health insurance policy claims were being handled by a Vice President, that the claims would be paid through Bandy, and that Washington National had actually paid for some of the healthcare services rendered for J.B.'s daughter on February 11, 2013.

74. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(8) because Bandy used fraudulent or dishonest practices, or demonstrated incompetence or untrustworthiness in the conduct of his business. For example:

    a. Bandy used fraudulent or dishonest practices by establishing email accounts in the names of L.P, J.S., C.R., and R.W. and impersonating them;

    b. Bandy used fraudulent or dishonest practices by cancelling consumers' Assurity critical illness insurance policies without their consent;

    c. Bandy used fraudulent or dishonest practices by applying for health insurance coverage through Washington National without the applicants' consent;

    d. Bandy demonstrated incompetence by falsely certifying to Washington National that he had personally explained the health insurance coverage purportedly sought, when actually the consumers were not even seeking the coverage;

    e. Bandy demonstrated untrustworthiness by selecting security questions and PINs pursuant to the Washington National health insurance policies purportedly sought by L.P., J.S., and C.R.; and/or

    f. Bandy demonstrated untrustworthiness when he repeatedly misrepresented to J.B. the method and status of J.B.'s Washington National health insurance policy claims, including that the claims were submitted, were being personally handled by a Vice President of the insurer, that claims were paid, and that the insurer would deposit claim payments into Bandy's weekly compensation.

75. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(10) because Bandy signed the names of L.P., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., and R.M. on twelve Washington National health insurance policy applications without their authorization.

76. The Director may refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(10) because Bandy signed the names of L.P., R.W., J.S., and C.R. on four insurance policy cancellation requests sent to Assurity without their authorization.

77. Each time Bandy signed the name of L.P., R.W., J.S., C.R., M.C., S.D., T.D., J.H., D.R., D.A., T.H., J.P., or R.M. on an application for insurance or any document related to an insurance transaction without authorization constitutes a separate and sufficient cause to refuse to renew Bandy's resident insurance producer license pursuant to § 375.141.1(10).

78. The Director has considered Bandy's history and all of the circumstances surrounding Bandy's Application. Renewing Bandy's resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Bandy's resident insurance producer license.

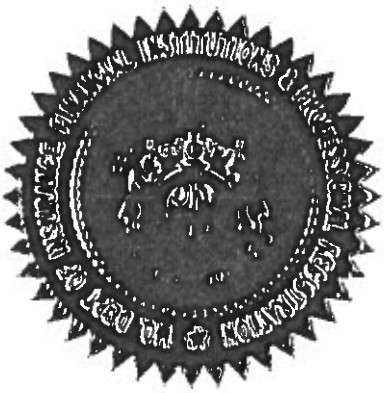
79. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license renewal application of **James Earl Bandy** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 11th **DAY OF MARCH, 2016.**



JOHN M. HUFF
DIRECTOR, Missouri Department of Insurance,
Financial Institutions and Professional Registration

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.

[The remainder of this page intentionally left blank]

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of March, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

James Earl Bandy
787 West Kingsway Drive
Springfield, Missouri 65810-1692

No. 1Z0R15W84299143255

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of March, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

James Earl Bandy
787 West Kingsway Drive
Springfield, Missouri 65810-1692

No. 1Z0R15W84297750861

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, Certified Mail, at the following address:

James Earl Bandy
787 West Kingsway Drive
Springfield, Missouri 65810-1692

Certified No. 7012 3460 0002 8615 0539

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2016, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

James Earl Bandy
935 South Delaware Avenue
Springfield, Missouri 65802-3319

No. 1Z0R15W84298732692

Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov