State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
JUSTIN JOHN WILLIAMS,	)	**Case No. 151203536C**
	)	
Renewal Applicant.	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On December 9, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the resident insurance producer license of Justin John Williams. 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. Justin John Williams ("Williams") is a Missouri resident with a business, residential, and mailing address of record of 2750 Saint Peters Howell Road, Saint Peters, Missouri 63376-2845.

2. On October 1, 2013, the Prosecuting Attorney of St. Charles County charged Williams with one count of Domestic Assault in the Third Degree, a Class A Misdemeanor, in violation of § 565.074, RSMo ("Domestic Assault").[1] *State v. Williams*, St. Charles Co. Cir. Ct., Case No. 1311-CR05708.

3. On or about December 5, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") electronically received Williams's Uniform Application for Individual Producer License/Registration ("2013 Application").

4. Williams answered "Yes" to Background Question 1 of the 2013 Application which asked, in relevant part:

> Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?
>
> Note: "Crime" includes a misdemeanor, a felony, or a military offense.

[1] All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri pursuant to which Williams was charged.

> You may exclude misdemeanor traffic citations and misdemeanor convictions or pending misdemeanor charges involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses.
>
> * * *
>
> If you answer yes, you must attach to this application:
>
> a) a written statement explaining the circumstances of each incident,
> b) a copy of the charging document,
> c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

5. Also on or about December 5, 2013, the Department received a facsimile transmission from Williams that consisted of a signed, dated letter stating that he "failed to read all the way through on the criminal background section, and checked that I was convicted when in fact, I have not been guilty of anything other than Dui in 2007."

6. Williams submitted no other documents with his 2013 Application, nor did he disclose in any way that he was then charged for Domestic Assault.[2]

7. It is inferable, and hereby found as fact, that Williams failed to disclose his pending Domestic Assault charge in order to misrepresent to the Department that he was not being prosecuted and, accordingly, to increase the likelihood that the Department would approve of his 2013 Application and issue him an insurance producer license.

8. Relying on Williams's 2013 Application and the accompanying letter, the Department issued Williams a resident insurance producer license on December 9, 2013.

9. On January 13, 2015, the Missouri Division of Employment Security issued an Order of Assessment of Overpaid Benefits against Williams for $2,058.10 and "notified [him] by serving a copy … as required by law." *Div. of Emp't Sec. v. Williams*, St. Charles Co. Cir. Ct., Case No. 1511-MC01219.

10. Williams did not appeal or otherwise contest the Division of Employment Security's Order of Assessment of Overpaid Benefits for "said debt assessed for the period 10/12/13 – 1/25/14" within the time allotted by law; therefore, it became final. *Id.*

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[2] On January 30, 2014, the St. Charles County Circuit Court dismissed the Domestic Assault charge against Williams. *Id.*

11. On March 19, 2015 and pursuant to § 288.170.1, the Division of Employment Security certified the final disposition of its administrative action against Williams to St. Charles County Circuit Court, whose judgment in the matter remains unsatisfied. *Id.*

12. Williams did not report to the Director the administrative action against him by the Division of Employment Security within thirty days of its final disposition.

13. Williams did not provide to the Director within thirty days of its finality the Division of Employment Security's Order of Assessment of Overpaid Benefits against him, nor any other relevant legal documents from the administrative action.

14. Williams never reported to the Director the administrative action against him by the Division of Employment Security.

15. Williams never provided to the Director the Division of Employment Security's Order of Assessment of Overpaid Benefits against him, nor any other relevant legal documents from the administrative action.

16. In December 2014, Williams produced a Marketplace[3] health insurance policy on behalf of Anita Schnurbusch, knowingly and substantially understating her income on the policy application as being approximately $17,000, although Schnurbusch had told Williams her correct income.

17. In January 2015, Williams produced a Marketplace health insurance policy on behalf of Patti Gassel, knowingly and substantially understating her income on the policy application as being approximately $16,000, although Gassel had told Williams both her correct income and her husband's.

18. Also in January 2015, Williams produced a Marketplace health insurance policy on behalf of Richard Holey, knowingly and substantially understating his income on the policy application as being approximately $16,000, although Holey had told Williams his correct income.

19. In February 2015, Williams produced a Marketplace health insurance policy on behalf of Patrick Pinnell, knowingly and substantially understating his income on the policy application as being approximately $21,000, although Pinnell had told Williams his correct income.

20. A Marketplace health insurance policy applicant's income information is material because it is used to calculate the prospective insured's premium payment and determine their eligibility for premium tax credits and cost-sharing reductions pursuant to the Patient Protection and Affordable Care Act of 2010, Pub. L. 111-148, as amended by Pub. L. 111-152. *See* 26 U.S.C. § 36B; 42 U.S.C. § 18071.

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[3] *See* I.R.S. Pub. 5187, Health Care Law: What's New for Individuals & Families (Jan. 1, 2014); http://healthcare.gov.

21. Williams misrepresented the terms of the actual or proposed Marketplace health insurance policies to Schnurbusch, Gassel, Holey, and Pinnell by understating the policies' cost or the consumers' eligibility for premium tax credits and cost-sharing reductions.

22. Williams submitted the Marketplace health insurance policy applications with incorrect income information in order to obtain fees, commissions, money, or other benefits.

23. As a result of Williams's actions, each of the consumer victims suffered harm. When the Marketplace requested Internal Revenue Service documents to verify the consumers' incomes, it discovered their incomes were substantially higher than represented by Williams on their applications. Consequently, the consumer victims' premiums increased and they were determined unqualified for the premium tax credits and cost-sharing reductions.

24. On December 9, 2015, the Department electronically received Williams's Uniform Application for Individual Producer License Renewal/Continuation ("2015 Application").

CONCLUSIONS OF LAW

25. Section 375.141, RSMo (Supp. 2013),[4] an insurance law, 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:
>
> (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;
>
> * * *
>
> (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; [or]
>
> * * *

[4] All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

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

* * *

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.

26. Section 375.144, an insurance law, provides in relevant part:

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

* * *

(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.

27. Section 375.934, an insurance law, provides in relevant part:

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.

28. 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[.]

29. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(1) because Williams intentionally provided materially misleading or incomplete information in his 2013 Application when he failed to disclose that he was then charged for Domestic Assault, and failed to provide the required documentation.

30. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(3) because Williams obtained a license through material misrepresentation or fraud by failing to disclose in his 2013 Application that he was then charged for Domestic Assault.

31. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(2) because Williams violated an insurance law, specifically § 375.141.6, when he failed to report the administrative action taken against him by the Division of Employment Security within thirty days of the final disposition of the matter. *See Div. of Emp't Sec. v. Williams*, St. Charles Co. Cir. Ct., Case No. 1511-MC01219.

32. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(5) because Williams intentionally misrepresented to the Marketplace the terms of Marketplace health insurance policy applications by understating the incomes of Schnurbusch, Gassel, Holey, and Pinnell.

33. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(5) because Williams intentionally misrepresented to consumers the terms of actual or proposed Marketplace health insurance policies by understating the policies' cost or the consumers' eligibility for premium tax credits and cost-sharing reductions.

34. Each instance in which Williams misrepresented an applicant's income on a Marketplace health insurance policy application or misrepresented the terms of a Marketplace health insurance policy to Schnurbusch, Gassel, Holey, or Pinnell constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(5).

35. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(2) because Williams violated an insurance law, specifically § 375.144(2), when he misrepresented Marketplace health insurance policy applicants' incomes. The incomes of the consumer victims were material facts to the consumers for determining whether to purchase the policies and to the Marketplace for determining the consumers' eligibility for premium tax credits and cost-sharing reductions.

36. Each violation of § 375.144(2) constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(2).

37. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(2) because Williams violated an insurance law, specifically § 375.144(3), when he engaged in a pattern or practice of falsely stating Marketplace health insurance policy applicants' incomes.

38. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(2) because Williams violated an insurance law, specifically § 375.144(4), when he engaged in an act, practice, or course of business which operated as fraud or deceit upon the consumer victims and/or the Marketplace by intentionally understating Marketplace health insurance policy applicants' incomes.

39. Each violation of § 375.144(4) constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(2).

40. Williams engaged in the unfair trade practice of misrepresentation in insurance applications as defined in § 375.936(7). Williams falsely or fraudulently understated the incomes of Schnurbusch, Gassel, Holey, and Pinnell on their Marketplace health insurance policy applications for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, agency, broker or other person.

41. Williams 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.

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

43. The Director may refuse to renew Williams's resident insurance producer license pursuant to § 375.141.1(8) because Williams used fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business when he understated prospective insureds' incomes on Marketplace health insurance policy applications.

44. The Director has considered Williams's history and all of the circumstances surrounding Williams's 2015 Application, including the infirmity of his 2013 Application. Renewing Williams's resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Williams's resident insurance producer license.

45. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license renewal application of **Justin John Williams** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 9th **DAY OF** December**, 2015.**

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.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2015, 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:

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Saint Peters, Missouri 63376-2845

No. 1Z0R15W84295861763

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