State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Raymond C. Lovett,	)	Case No. 10-1129709C
	)	
Applicant.	)	

REFUSAL TO ISSUE NONRESIDENT INSURANCE PRODUCER LICENSE

On or about April 14, 2011, Kristen E. Paulsmeyer, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue the nonresident insurance producer license of Raymond C. Lovett. 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:

FINDINGS OF FACT

1. Raymond C. Lovett ("Lovett") is an individual residing in Florida.

2. On or about August 18, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") electronically received Lovett's NAIC Uniform Application for a nonresident insurance producer license ("Application").

3. In his Application, Lovett listed his residential and mailing address as 10080 SW 94th Ave., Ocala, Florida, 34481.

4. Background Question No. 2 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. Lovett answered "No" to Question No. 2.

6. The following regulatory action was taken against Lovett in Florida:

    a. On or about March 4, 2009, Lovett and the Department of Financial

Services of the State of Florida entered into a Consent Order. *In the matter of: Raymond C. Lovett*, Case No. 102053-09-AG.

b. The Florida Department of Financial Services has jurisdiction over insurance licenses and eligibility for licensure.

c. In the Consent Order, Lovett agreed to pay an administrative penalty in the amount of $750.00 within 30 days of the Consent Order. *In the matter of: Raymond C. Lovett*, Case No. 102053-09-AG.

d. The Settlement Stipulation for Consent Order alleged that the Board of Licensing for the State of Florida determined grounds existed to deny Lovett's application for licensure as a life and health agent based upon Lovett's negative response to the question on the application concerning an arrest or charge in the past 12 months in that Lovett was arrested by Maine State Police for Operating under the Influence, a misdemeanor. *In the matter of: Raymond C. Lovett*, Case No. 102053-09-AG.

7. On or about September 3, 2010, the Division of Consumer Affairs ("Division") sent Lovett written correspondence to the mailing address provided on the Application requesting Lovett explain the Florida action and provide a copy of the stipulated agreement/order. The correspondence requested a response by September 24, 2010.

8. The Division's September 3, 2010 correspondence was not returned to the Department as undeliverable. Lovett failed to respond to the Division's September 3, 2010 correspondence or contact the Division in any other way to demonstrate a reasonable justification for the delayed response.

9. On or about September 24, 2010, the Division again sent Lovett written correspondence to the mailing address provided on the Application requesting Lovett explain the Florida action and provide a copy of the stipulated agreement/order. The correspondence requested a response by October 15, 2010.

10. The Division's September 24, 2010 correspondence was not returned to the Division as undeliverable. Lovett failed to respond to the Division's September 24, 2010 correspondence or contact the Division in any other way to demonstrate a reasonable justification for the delayed response.

CONCLUSIONS OF LAW

11. 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[.]

12. 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

13. Fraud is a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. *Fin. Solutions and Assocs. v. Carnahan*, 316 S.W.3d 518, 528 (Mo. App. W.D. 2010). "Fraud is an intentional perversion of truth to induce another, in reliance on it, to part with some valuable thing belonging to him. It necessarily includes dishonesty, which is a lack of integrity or a disposition to defraud or deceit. Misrepresentation is a falsehood or untruth made with the intent and purpose of deceit." *State Bd. of Nursing v. Kinkade*, No. 10-1602 BN (Mo. Admin. Hrg. Comm'n, February 22, 2011) (internal citations omitted). "'Material' means 'having real importance or great consequences[.]'" *Director of Dept. of Ins., Fin. Inst. and Prof. Regist. v. Louderback and Premier Financial Services,* No. 07-1376 DI (Mo. Admin. Hrg. Comm'n, May 21, 2009) (internal citations omitted).

14. 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).

CAUSE FOR ORDER TO REFUSE TO ISSUE A NONRESIDENT INSURANCE PRODUCER LICENSE

15. The Director may refuse to issue a nonresident insurance producer license to Lovett pursuant to § 375.141.1(2), RSMo (Supp. 2010) because Lovett violated the insurance laws of Florida with his negative response on the Florida application concerning an arrest or charge in the past 12 months in that Lovett was arrested by Maine State Police for Operating under the Influence, a misdemeanor. *In the matter of: Raymond C. Lovett*, Case No. 102053-09-AG.

16. The Director may refuse to issue a nonresident insurance producer license to Lovett pursuant to § 375.141.1(2), RSMo (Supp. 2010) because Lovett violated the insurance regulations of Missouri by failing to respond to Division inquiries within 20 days or demonstrate a reasonable justification for his delayed response as required by 20 CSR 100-4.100(2)(A), which is cause to discipline under § 375.141.1(2).

17. The Director may refuse to issue a nonresident insurance producer license to Lovett pursuant to § 375.141.1(1) RSMo (Supp. 2010) because Lovett intentionally provided materially incorrect, misleading, incomplete or untrue information in the Application, in that he provided a negative response to Background Question No. 2, which asked whether he had ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration when, in fact, he had been involved in an administrative proceeding in Florida.

18. The Director may refuse to issue a nonresident insurance producer license to Lovett pursuant to § 375.141.1(3), RSMo (Supp. 2010) because Lovett attempted to obtain a license through material misrepresentation or fraud, in that he failed to disclose the Florida consent order and administrative penalty, which is material because the Department uses that information in determining whether or not to issue, renew, or revoke a license.

19. Lovett violated the insurance laws of the state of Florida by failing to disclose that he was arrested by Maine State Police for Operating Under the Influence, a misdemeanor. On his Application, Lovett failed to disclose the Florida consent order and administrative penalty. Lovett provided incorrect and untrue information to the Department in response to Background Question No. 2, and by doing so, attempted to obtain a license through material misrepresentation. Granting Lovett a nonresident insurance producer license would not be in the interest of the public. For all of the reasons given in this Petition, the Director has considered Lovett's history

and all of the circumstances surrounding Lovett's Application and exercises his discretion in summarily refusing Lovett's nonresident insurance producer license.

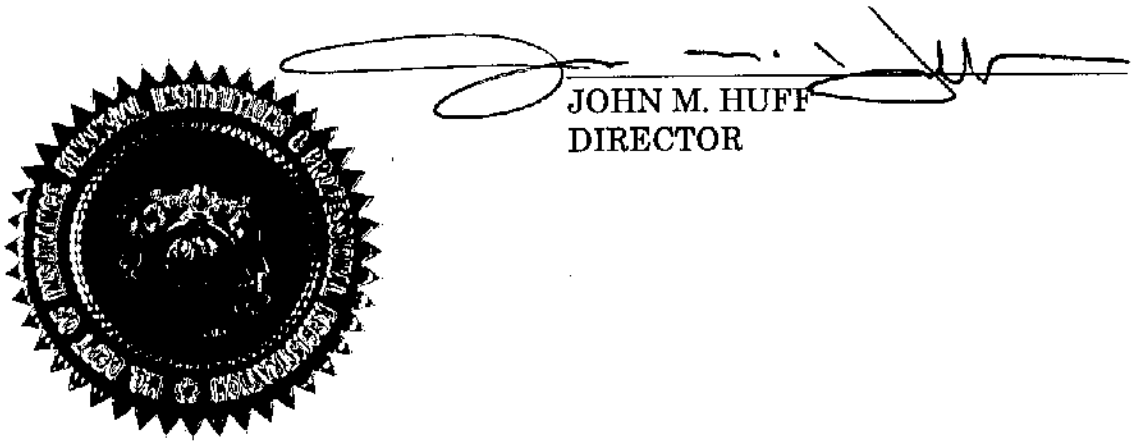
20. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the nonresident insurance producer license of Raymond C. Lovett is hereby summarily **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 18th DAY OF APRIL, 2011.



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 19th day of April, 2011, a copy of the foregoing Notice and Order was served upon the Applicant in this matter by certified mail No. 7004 1350 0003 1413 5585 to:

Raymond C. Lovett
10080 SW 94th Ave.
Ocala, Florida 34481

Kathryn Randolph
Kathryn Randolph
Paralegal