

## State of Missouri

### DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF: )  
 )  
Mitchell Brian Storfer, ) Case No. 110104003C  
 )  
Applicant. )

#### REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On February 10, 2011, Carolyn H. Kerr, Legal Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Mitchell Brian Storfer. 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. Mitchell Brian Storfer ("Storfer") is an individual residing in Florida.
2. On or about August 18, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Storfer's electronic Resident Individual Producer License Application ("Application").
3. In his Application, Storfer listed his residential address as 578 Cross Creek Circle, Sebastian, Florida 32958. He listed the same address for his mailing address. Storfer listed 2001 9<sup>th</sup> Ave., Suite 114, Vero Beach, Florida 32960 as his business address.
4. In the section of the Application headed "Background Information," Background Question # 2 asks: "Have you ever been named or involved as a party to an administrative proceeding regarding any professional or occupational license or registration?"
5. Storfer answered Background Question # 2 with a "Yes."
6. In response to the request in Background Question # 2, Storfer attached to his Application a copy of an unsigned letter from the Florida Department of Financial Services, dated March 31, 2010, indicating that a Stay of Final Order Revoking Insurance License had been issued and that his Florida producers license was reinstated and a copy of a "Letter of Certification" dated August 10, 2010, indicating that Storfer was qualified as a producer in Florida.

7. On April 29, 2010, prior to the date Storfer submitted his Application to the Department, the Mississippi Insurance Department issued an Order of Denial against Storfer, denying his renewal application for a Producer's license. *In re: Mitchell B. Storfer*, Mississippi License No. 10124117, Mississippi Insurance Department, Cause No. 10-6068.

8. Storfer failed to disclose the administrative action taken by the Mississippi Insurance Department against his producer license renewal application on his Application submitted to the Department.

9. Upon receipt of Storfer's Application, Special Investigator Karen Crutchfield ("Crutchfield") sent Storfer a letter dated September 7, 2010, by first class mail, requesting an explanation for the original action in Florida revoking his Florida producer's license and an explanation for the Mississippi license denial, which had not been disclosed in his Application. The letter requested that Storfer respond on or before September 28, 2010.

10. On September 10, 2010, Crutchfield received a fax transmission from Storfer which included the following:

- a. A copy of a Letter of Certification dated August 10, 2010, issued by the State of Florida;
- b. A copy of an Administrative Complaint, dated March 4, 2009, by the Chief Financial Officer of the State of Florida (*In the Matter of Mitchell Brian Storfer*, Case No. 94373-09-AG, March 4, 2009) ("Florida Administrative Complaint"); and
- c. A copy of an Election of Proceeding in Case No. 94373-09-AG, signed by Storfer on March 25, 2009.

11. No other documents or correspondence responding to the specific requests outlined in Crutchfield's September 7, 2010 letter were included in the September 10, 2010 fax.

12. The Florida Administrative Complaint set forth the following allegations against Storfer:

- a. "Willful misrepresentation of any insurance policy or annuity contract or willful deception with regard to any such policy or contract, done either in person or by any form of dissemination of information or advertising," in violation of §626.611(5), Florida Statutes;
- b. "Demonstrated lack of fitness or trustworthiness to engage in the business of insurance," in violation of §626.611(7), Florida Statutes;

- c. "Fraudulent or dishonest practices in the conduct of business under the license or appointment," in violation of §626.611(9), Florida Statutes;
- d. "Willful failure to comply with, or willful violation of, any proper order or rule of this department or willful violation of any provision of the Insurance Code," in violation of §626.611(13), Florida Statutes;
- e. "Violation of any provision of this code or of any other law applicable to the business of insurance in the course of dealing under the license or appointment," in violation of §626.621(2), Florida Statutes;
- f. "In the conduct of business under the license or appointment, engaging in unfair methods of competition or unfair or deceptive acts or practices, as prohibited by part IX of this chapter," in violation of §626.621(6), Florida Statutes;
- g. "Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison, which misrepresents the benefits, advantages, conditions, or terms of any insurance policy," in violation of §626.9541(1)(a)1, Florida Statutes; and
- h. "Knowingly
  - i. Filing with any supervisory or other public official,
  - ii. Making, publishing, disseminating, circulating,
  - iii. Delivering to any person,
  - iv. Placing before the public,
  - v. Causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or place before the public, any false material statement,"
  - vi. In violation of §626.9541(1)(e)1, Florida Statutes.

Florida Administrative Complaint, pages 7 – 8.

13. On September 28, 2010, Crutchfield sent Storfer another letter by first class mail indicating that the documents she originally requested in her September 7, 2010 letter had not been provided. The letter again requested that Storfer "provide an explanation for the Florida

revocation (and subsequent license reinstatement), an explanation for the Mississippi license denial, and a copy of the Mississippi license denial.” Storfer’s response was due on or before October 19, 2010.

14. Having received no response to her September 28, 2010 letter, Crutchfield sent Storfer an email, dated October 21, 2010, again requesting the documents and a response by November 11, 2010.

15. Storfer responded to Crutchfield via email on November 1, 2010, and attached a letter of explanation, a copy of Crutchfield’s September 28, 2010 letter, a letter from the Florida Department of Financial Services dated March 31, 2010, indicating that Storfer’s Florida producer license had been reinstated, and a copy of the Order of Denial issued by the Mississippi Insurance Department on April 29, 2010.

16. According to Storfer’s November 1, 2010 email response to Crutchfield, the “denial with the state of Mississippi was due to the Florida complaint.”

17. On September 23, 2010, the California Department of Insurance issued an Order of Summary Revocation against Storfer’s non-resident producer’s license. *In the Matter of the Licenses and Licensing Rights of Mitchell Brian Storfer*, State of California Department of Insurance, File No. LBB 6268-AP (AR) (“California Revocation Order”).

18. According to the California Revocation Order, the Mississippi Insurance Department denied Storfer’s renewal application “due to Respondent’s misstatement on his renewal application and failure to disclose the Florida disciplinary action[.]”

### CONCLUSIONS OF LAW

19. Section 375.141, RSMo (Supp. 2010)<sup>1</sup> provides, in relevant 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;

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<sup>1</sup> All statutory references are to the 2010 Supplement to the Revised Statutes of Missouri, unless otherwise noted.

\* \* \*

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

20. Miss. Code Ann. § 83-17-71, provides, in relevant part:

(1) The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation and such penalty shall be deposited into the special fund of the State Treasury designated as the "Insurance Department Fund" for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application[.]

21. California Insurance Code §1669, provides, in relevant part:

The commissioner may, without hearing, deny an application if the applicant has:

\* \* \*

(c) Had a previous application for a professional, occupational, or vocational license denied for cause by any licensing authority, within five years of the date of the filing of the application to be acted upon, on grounds that should preclude the granting of a license by the commissioner under this chapter; or

(d) Had a previously issued professional, occupational, or vocational license suspended or revoked for cause by any licensing authority, within five years of the date of the filing of the application to be acted upon, on grounds that should preclude the granting of a license by the commissioner under this chapter.

22. The principal purpose of § 375.141 is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

**CAUSE FOR ORDER REFUSING TO ISSUE  
PUBLIC ADJUSTER SOLICITOR LICENSE**

23. The Director may refuse to issue Storfer a non-resident insurance producer license pursuant to § 375.141.1(1), because Storfer intentionally provided materially incorrect,

misleading, incomplete, or untrue information on his Application, in that Storfer failed to disclose the administrative action taken by the Mississippi Insurance Department against his Mississippi producer license renewal application on his Application submitted to the Department.

24. The Director may refuse to issue Storfer a non-resident insurance producer license pursuant to § 375.141.1(2), because Storfer violated the insurance laws of Florida, Mississippi, and/or California, namely:

- a. §§ 626.611(5), (7), (9), and (13), 626.621(2) and (6), and 626.9541(1)(a)1 and (e)1, Florida Statutes; or
- b. Miss. Code Ann. § 83-17-71(1)(a); or
- c. California Insurance Code §1669(c) and (d).

25. The Director may refuse to issue Storfer a non-resident insurance producer license pursuant to § 375.141.1(3), because Storfer attempted to obtain a producer license through material misrepresentation or fraud, in that Storfer intentionally failed to disclose a material fact on his Application, namely, the administrative action taken by the Mississippi Insurance Department against his Mississippi producer license renewal application on his Application submitted to the Department.

26. The Director may refuse to issue Storfer a non-resident insurance producer license pursuant to § 375.141.1(9), because:

- a. The Florida Department of Financial Services revoked Storfer's Florida insurance producer license on or about March 19, 2010. The Order revoking Storfer's Florida insurance producer license was stayed and his producer license was reinstated on or about March 31, 2010. *In the Matter of Mitchell Brian Storfer*, Case No. 94373-09-AG
- b. The Mississippi Insurance Department denied Storfer's application for an insurance producer license on April 29, 2010. *In re: Mitchell B. Storfer*, Mississippi License No. 10124117, Mississippi Insurance Department, Cause No. 10-6068; and
- c. The California Department of Insurance revoked Storfer's California insurance producer license by an order dated September 23, 2010. Said Order became effective on or about October 23, 2010. *In the Matter of the Licenses and Licensing Rights of Mitchell Brian Storfer*, State of California Department of Insurance, File No. LBB 6268-AP (AR).

27. Therefore, in applying his discretion, the Director should consider all of the facts and circumstances surrounding each of the enumerated disqualifying events and refuse to issue an insurance producer license to Storfer.

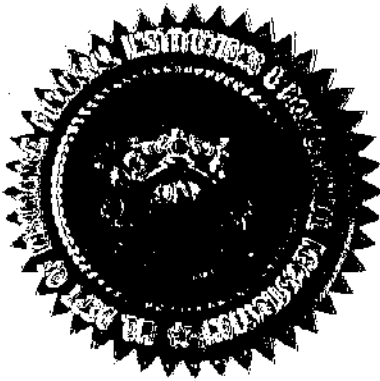
28. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of MITCHELL BRIAN STORFER is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 14<sup>TH</sup> DAY OF FEBRUARY, 2011.

A handwritten signature in black ink, appearing to read "John M. Huff", is written over a horizontal line.

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 16<sup>th</sup> day of February, 2011, a copy of the foregoing notice and order was served upon Mitchell Brian Storfer in this matter by certified mail at the following address:

Mitchell Brian Storfer  
578 Cross Creek Circle  
Sebastian, FL 32958

Mitchell Brian Storfer  
2001 9<sup>th</sup> Ave., Ste. 114  
Vero Beach, FL 32960

Certified Mail # 70041350000314135539 # 70041350000314135546

Kathryn Randolph