State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Ruth Ellen Moss,	)	Case No. 100617485C
	)	
f/k/a or a/k/a Ruth E. Davis,	)	
f/k/a or a/k/a Ruth E. Maroney,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
Ruth Ellen Moss	)	
5532 St. Hwy. 22	)	
Conway, MO 65632	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On January 19th, 2011, Carolyn H. Kerr, Senior Enforcement 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 Ruth Ellen Moss. 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. Ruth Ellen Moss is an individual residing in Missouri. According to her Application, Moss has also been known by the names "Ruth E. Davis" and "Ruth E. Maroney." Throughout this document, "Moss" shall refer to the applicant under her previous names or aliases as well as under the name used on her Application.

2. On or about December 23, 2009, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received the Uniform Application for Individual Producer License Application of Moss ("Application").

3. Moss only listed one address, her residence address, on the Application as 5532 St. Hwy. 22, Conway, Missouri 65632. The mailing address portion of Application is blank.

4. At no time after she submitted her Application did Moss inform the Department of any change in her address.

5. In the section of the Application headed "Background Information," Background Question # 4 asks: "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?"

6. Moss answered Background Question # 4 with a "Yes."

7. In response to the request in Background Question # 4 to "identify the jurisdiction(s)," Moss indicated the following: "2006 – state taxes – rebuttal form attached, Dallas County." Moss attached a letter of explanation, dated December 22, 2009, to her Application.

8. Upon receipt of Moss' Application, Special Investigator Dana Whaley sent Moss a letter dated January 8, 2010, by first class mail, requesting "a copy of the correspondence you have sent to and/or received from the State of Missouri regarding this [tax delinquency] matter" and a copy of "a tax compliance letter." The letter requested that Moss respond on or before January 29, 2010.

9. On January 17, 2010, Whaley received a fax transmission from Moss which included: a response to Whaley's January 8, 2010 letter; a copy of a letter Moss sent to the Missouri Department of Revenue (DOR) requesting an explanation of the tax delinquency; a copy of a "Notice of Deficiency – Individual Income" Moss received from the DOR dated November 11, 2009; and a copy of Moss' 2006 Form MO-1040 Individual Income Tax Return.

10. On January 21, 2010, Whaley sent Moss another letter by first class mail thanking her for the information sent and requesting "a copy of a tax compliance letter" from the DOR. The letter requested that Moss respond within 30 days of the date of her letter.

11. Having received no response to her January 21, 2010 letter, Whaley sent by first class mail a second letter, postmarked March 2, 2010, to Moss' residence address, again requesting the document. The Investigator requested a response to this letter by March 23, 2010.

12. Whaley also called Moss on April 8, 2010, and May 27, 2010, requesting additional information and a copy of the tax compliance letter from the DOR. On both occasions, Whaley left a voice mail message. Moss returned Whaley's April 8, 2010 phone call on April 12, 2010, and indicated that she was attempting to obtain the requested tax compliance letter from DOR. Moss did not return Whaley's May 27, 2010 phone call.

13. The Consumer Affairs Division has received no further response or cooperation from Moss since her April 12, 2010 phone call to Whaley.

14. Moss has failed to demonstrate reasonable justification for the delay in responding to Whaley's January 21 and March 2, 2010 inquiries to Moss.

CONCLUSIONS OF LAW

15. Section 375.141, RSMo (Supp. 2009)[1] 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:
>
> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state[.]

16. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

> (2) Except as required under subsection (2)(B)—
>
> (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.
>
> (B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

17. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

18. 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).

---

[1] All statutory references are to the 2009 Supplement to the Revised Statutes of Missouri, unless otherwise noted.

CAUSE FOR ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

19. Moss twice failed to respond as required by 20 CSR 100-4.100 to Consumer Affairs Division inquiries regarding her tax delinquency. These failures each constitute cause under § 375.141.1(2) for this Department's refusal to license Moss.

20. Moss has not demonstrated any reasonable justification for her failure to respond to the Division's investigative inquiries within the time required by 20 CSR 100-1.400.

21. Moss has shown through her repeated failures to cooperate with the Consumer Affairs Division that she cannot be counted upon to submit herself to this Department's regulatory authority. Her failure to cooperate and communicate with the Division raise doubts about her willingness to conform to the state's insurance laws and regulations.

22. The Director has considered Moss' history and all of the circumstances surrounding her Application. Moss failed to respond to inquiries from the Consumer Affairs Division. Therefore, granting Moss an insurance producer license would not be in the interest of the public. For all of the reasons stated in this Order, the Director exercises his discretion by refusing to issue Moss an insurance producer license.

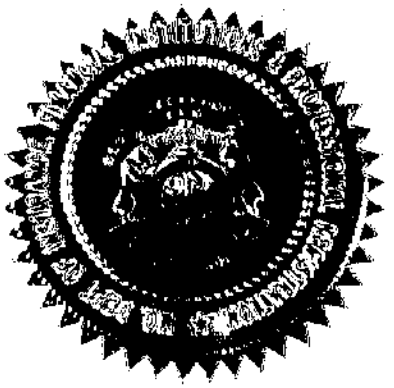
23. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of RUTH ELLEN MOSS is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 19th DAY OF January, 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 24th day of January 2011, a copy of the foregoing notice and order was served upon Ruth Ellen Moss in this matter by certified mail at the following address:

Ruth Ellen Moss
5532 St. Hwy. 22
Conway, MO 65632

Certified Mail # 77041350000314135447

Ruth Ellen Moss
1816 S. Connor
Joplin, MO 64804

70041350000314135454

Kathryn Randolph