State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
RALPH ERNEST HAROLD,	)	**Case No. 140815608C**
	)	
Renewal Applicant.	)	

ORDER REFUSING TO RENEW AN INSURANCE PRODUCER LICENSE

On September 28, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to renew Ralph Ernest Harold's resident insurance producer license. 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 order:

FINDINGS OF FACT

1. Ralph Ernest Harold ("Harold") is a Missouri resident with a residential and business address of 22710 SW Hampton Court, Blue Springs, Missouri 64015 and a mailing address of 11184 Antioch Road, Suite 275, Overland Park, Kansas 66210.

2. The Department of Insurance, Financial Institutions, and Professional Registration ("Department") issued Harold a resident insurance producer license (License No. 0317367) on September 29, 2003, which was renewed most recently on September 30, 2013.

3. Harold was employed by Genworth Life Insurance Company ("Genworth") until his termination on or about August 1, 2013.

4. During his employment with Genworth, Harold sold a long term care insurance policy to Larry Krueger (hereinafter, the "insured").

5. Cynthia Krueger was listed as the insured's spouse and Power of Attorney on the insured's long term care insurance policy.[1]

6. After the insured was diagnosed with pancreatic cancer, Harold began submitting "Invoices for Independent Health Care Providers" ("invoices") that listed Harold as

[1] Cynthia Krueger and Harold shared an office in Overland Park, Kansas. Cynthia Krueger voluntarily surrendered her Missouri non-resident insurance producer license (License No. 0236751) on December 10, 2013.

the insured's care provider and friend. On the invoices, the "Daily Tasks Performed" included the following tasks, as well as others, that Harold claimed to have completed while caring for the insured: bathing, transferring, dressing, meal preparation, personal care, housekeeping, grocery shopping, and companionship.

7. Harold submitted invoices to Genworth for services he allegedly performed from September 12, 2012 through September 30, 2012 and November 1, 2012 through May 31, 2013 in order to receive reimbursements from Genworth. Said invoices totaled $22,850.00.

8. Genworth contacted Cynthia Krueger, the insured's wife, regarding the invoices. When Cynthia Krueger could not answer basic questions about the care Harold was providing for the insured, Genworth opened an investigation and conducted surveillance of the insured and Harold on various occasions between February 18, 2013 and July 1, 2013.

9. For example, the Surveillance Summary for April 30, 2013 states as follows:

> - The insured was observed on this date. He operated a motor vehicle independently and went to work and then returned home.
> - Ralph Harold billed for 3 hours @ $40/hr, 5:00pm-8:00pm.
> - Caregiver, Ralph Harold, was not observed.
>
> On Tuesday, April 30, 2013 (10:04 a.m. – 8:00 p.m.), the insured departed the work location in his tan Ford Explorer at 5:08 p.m. and drove to his residence, entering through the garage. No other activity was observed. There were no observations of any subject/caregiver at the residence on this date.

10. In contrast, the invoice Harold submitted for the month of April 2013 states that Harold worked from 5:00 p.m. to 8:00 p.m. on April 30th at the rate of $40.00 per hour and performed the following tasks: personal care, assist with ambulation, companionship.

11. On July 2, 2013, an Investigator from Genworth met with Cynthia Krueger, the wife of the insured, and Harold, the producer on the insured's policy and the caregiver listed on multiple invoices submitted for reimbursement under the insured's policy.

12. At the July 2, 2013 meeting, Harold stated to the Genworth Investigator that he prepared and signed the invoices and submitted them to Cynthia Krueger, who reviewed the invoices for accuracy and submitted them to Genworth.

13. At the July 2, 2013 meeting, the Genworth Investigator provided Harold with copies of invoices from the dates that surveillance was conducted. Harold confirmed that

the handwriting on the invoices was his and that the information on the invoices was true and correct.

14. After Harold answered questions regarding details of the care he provided, the Genworth Investigator advised Harold that surveillance was conducted.

15. Genworth's Investigative Report states that Harold responded, in relevant part, as follows:

> Harold acknowledged that he prepared and submitted invoices to Genworth for care that was not provided. Harold explained that when the insured was diagnosed with pancreatic cancer they expected that he would go downhill quickly and that his care needs would exceed the policy benefits. In an effort to prepare for the increased costs they chose to submit invoices that were inflated so that they would have the resources to cover his expenses when his condition worsened. However, the insured made remarkable progress and they then were concerned with keeping the benefits coming, in the event that he had a rapid change in medical status. He acknowledged what they did was wrong and that he did not provide the care that was billed.

16. Cynthia Krueger agreed to pay the overpayment, which totaled approximately $9,330.00.

17. On June 16, 2015, the Assistant District Attorney in Johnson County, Kansas filed a Complaint against Harold charging him with Felony Insurance Fraud. The Complaint alleges:

> That on or between the 18th day of February, 2013, and the 1st day of July, 2013, in the County of Johnson, State of Kansas, RALPH HAROLD did then and there unlawfully, feloniously, knowingly and with the intent to defraud, present or cause to be presented, or prepare with knowledge or belief that it will be presented to or by an insurer, broker or any agent thereof, a claim for payment pursuant to an insurance policy for personal insurance, which he knew to contain materially false information concerning any fact material thereto, or concealed, for the purpose of misleading, information concerning any fact material thereto, and the monetary amount involved was at least $5,000.00 but less than $25,000.00, a severity level 7 non-person felony, in violation of K.S.A. 40-2, 118, K.S.A. 21-6804 and K.S.A. 21-6807.

Kansas v. Ralph Harold, Johnson Co. Dist. Ct., Case No. 15CR1424.

18. It is inferable, and hereby found as fact based upon review of the court documents, that the Johnson County, Kansas, criminal felony charge is based on Harold's preparation and/or submission of invoices to Genworth. Disposition of this case is pending. *Id.*

19. The Department received Harold's electronic Resident License Renewal Application ("Renewal Application") on September 25, 2015.

CONCLUSIONS OF LAW

20. Section 375.141 RSMo (Supp. 2013)[2] 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:
>
> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or another insurance commissioner in another state;
>
> * * *
>
> (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud; [or]
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

21. Section 375.991.2 provides:

> 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

[2] All statutory references are to the Revised Statutes of Missouri (2000) as updated by 2013 Supplement unless otherwise noted.

> 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.

22. Section 375.994.4 provides, in relevant part:

> If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of section 375.991 or a rule adopted or order issued pursuant to thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of section 375.991 or a rule adopted or order issued pursuant thereto, the director may ... suspend or revoke the license ... of such person for any willful violation.

23. Renewal of Harold's resident insurance producer license may be refused pursuant to § 375.141.1(2) because Harold violated an insurance law, namely § 375.991.2, when he knowingly presented, or prepared with the knowledge or belief that it would be submitted, to an insurer, a written statement as part of or in support of a claim for payment or other benefit pursuant to an insurance policy for personal insurance, which Harold knew to contain materially false information concerning any fact material thereto. Specifically, Harold admitted that he prepared and/or submitted, invoices to Genworth for care that he did not provide as part of or in support of a claim for personal insurance on the insured's long term care insurance policy, which Harold knew to contain materially false information concerning any fact material thereto.

24. Renewal of Harold's resident insurance producer license may be refused pursuant to § 375.141.1(7) because Harold has admitted or has been found to have committed fraud when he admitted that he prepared and/or submitted invoices to Genworth that included false information regarding care that Harold did not provide to the insured.

25. Renewal of Harold's resident insurance producer license may be refused pursuant to § 375.141.1(8) because Harold used fraudulent or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere when he prepared and/or submitted invoices for care that he did not provide in support of a claim for payment from Genworth on the insured's long term care insurance policy.

26. The Director has considered the circumstances surrounding Harold's Renewal Application. Renewing Harold's resident insurance producer license is not in the

public's interest. Accordingly, the Director exercises his discretion to refuse to renew Harold's resident insurance producer license.

27. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license renewal application of **Ralph Ernest Harold** is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF SEPTEMBER, 2015.

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 29th day of September, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

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Overland Park, Kansas 66210

No. 1Z0R15W84295373639

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