State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
SIOBHAN DAVIS,	)	**Case No. 150630351C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On October 6, 2015, the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause to refuse to issue a non-resident insurance producer license to Siobhan Davis. 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. Siobhan Davis ("Davis") is a Florida resident with a mailing address of 1364 S. Babcock St., Melbourne, Florida 32901, and a residential address of 504 Roberts St., Melbourne, Florida 32901.

2. On September 26, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Davis's completed electronic application for an individual non-resident insurance producer license ("Application").

3. Davis's Application was submitted by Natasha Mackey ("Mackey"), an Authorized Submitter.

4. By submitting the Application on Davis's behalf, Mackey certified as follows:

> "As the authorized submitter, I declare that the applicant provided all the information submitted on this application."

5. The "Applicant's Certification and Attestation" section of the Application states, in relevant part:

> 1. I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

6. Davis accepted the "Applicant's Certification and Attestation" section of her Application.

7. Davis holds a Florida resident insurance producer license, NPN 17049822, and is licensed as an insurance producer in several other states.

8. Background Question No. 2 of the Application asks the following:

> Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration? "Involved" means having a license censured, suspended, revoked, canceled, terminated; or being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. Involved also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee. If you answer yes, you must attach to this application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

9. Davis answered "No" to Background Question No. 2 on her Application.

10. On December 18, 2013, the Wisconsin Office of the Commissioner of Insurance sent Davis a letter denying her application for an individual non-resident insurance producer license ("Wisconsin Denial").[1] The Wisconsin Denial[2] states, in pertinent part:

> The decision to deny your license application is based on the following:
>
> You have not responded promptly to previous written requests for information from the Commissioner of Insurance regarding your application. Section 601.42, Wis. Stat., and s. Ins 6.59 (d), Wis. Adm. Code, provide that applications can be denied for failure to provide information promptly or for incomplete application.

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[1] The Wisconsin Office of the Commissioner of Insurance served Davis the Wisconsin Denial at the same address Davis listed as her mailing address on her Application (paragraphs 1 and 2, *supra*).

[2] Pursuant to Section 601.42(1r)(4), Wis. Stat., Davis was required to "reply promptly in writing or in other designated form, to any written inquiry from the commissioner requesting a reply.

> You have indicated "Yes" to the question on the application regarding felony or misdemeanor convictions. You have been convicted of a felony or misdemeanor which appears to be based on actions substantially related to activities and character required of agents. Section 6.59 (5) (a), Wis. Adm. Code, provides that applications can be denied if conviction of crime is substantially related to insurance marketing type activities.

In re: Siobhan Davis, Wisconsin Denial, Case No. 13-C35884.

11. Davis did not appeal the Wisconsin Denial.

12. The Wisconsin Denial warned Davis:

> This license denial is an administrative action and will be reported to other states. You should check with each state that you are licensed in to see if you are required to report this administrative action. This administrative action should be disclosed on future applications.

Id.

13. On July 29, 2015, Special Investigator Sheri Sloan of the Consumer Affairs Division ("Division") sent an inquiry letter to Davis via first class mail to the residential address Davis provided on her Application. The inquiry letter requested a copy of the Wisconsin Denial, an explanation of the events that led to the denial, and why Davis did not disclose the denial on her Application. The inquiry letter further requested a response within twenty days and warned Davis that a failure to respond could result in the Department refusing to issue her an insurance producer license.

14. The United States Postal Service did not return the July 29, 2015 inquiry letter to the Division as undeliverable, and therefore it is presumed received by Davis.

15. Davis failed to provide a written response to the Division's July 29, 2015 inquiry letter, and failed to demonstrate a reasonable justification for the delay.

16. It is inferable, and hereby found as fact, that Davis failed to disclose her Wisconsin Denial on her Application in order to improve the chances that the Director would approve her Application and issue her a non-resident insurance producer license.

17. As Davis is licensed in other states, she is certainly aware of the requirement to disclose on insurance producer license applications administrative actions taken against her. This is particularly true as the Wisconsin Denial affirmatively alerted her to the fact that the denial should be disclosed to other states.

CONCLUSIONS OF LAW

18. Section 375.141 RSMo (Supp. 2013)[3] 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;
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

19. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

> 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.

20. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

21. The Director may refuse to issue an individual non-resident insurance producer license to Davis under § 375.141.1(1) because Davis intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when she failed to disclose the Wisconsin Denial of her non-resident insurance producer license application in response to Background Question No. 2 in her Application. *In re: Siobhan Davis,* Wisconsin Denial, Case No. 13-C35884.

22. The Director may refuse to issue an individual non-resident insurance producer license to

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

Davis under § 375.141.1(2) because Davis violated an insurance law of another Commissioner, namely § 601.42 Wis. Stat., when Davis failed to respond to written requests for information from the Wisconsin Commissioner of Insurance. *In re: Siobhan Davis,* Wisconsin Denial, Case No. 13-C35884.

23. The Director may refuse to issue an insurance producer license to Davis under § 375.141.1(2) because Davis violated a regulation of the Director, namely 20 CSR 100-4.100(2)(A), when she failed to respond to the Division's July 29, 2015 inquiry letter and failed to provide a reasonable justification for the delay.

24. Each violation of a regulation of the Director or an insurance law of another insurance commissioner is a separate and sufficient ground for refusal under § 375.141.1(2).

25. The Director may refuse to issue an individual non-resident insurance producer license to Davis under § 375.141.1(3) because Davis attempted to obtain a license through material misrepresentation or fraud when she failed to disclose the Wisconsin Denial of her non-resident insurance producer license application in response to Background Question No. 2 in her Application. *In re: Siobhan Davis,* Wisconsin Denial, Case No. 13-C35884.

26. The Director may refuse to issue an individual non-resident insurance producer license to Davis under § 375.141.1(9) because Davis had an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory, namely Wisconsin. *In re: Siobhan Davis,* Wisconsin Denial, Case No. 13-C35884.

27. The Director has considered Davis's history and all of the circumstances surrounding Davis's Application, and exercises his discretion to refuse to issue Davis an individual non-resident insurance producer license.

28. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Siobhan Davis's** application for a non-resident insurance producer license is hereby **REFUSED.**

SO ORDERED.

WITNESS MY HAND THIS 8th **DAY OF** October**, 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 9th day of October, 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:

Siobhan Davis
504 Roberts St.
Melbourne, Florida 32901

Tracking No. 1Z0R15W84295381755

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