State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
STEPHEN R. McINTIRE,	)	**Case No. 150526310C**
	)	
Renewal Applicant.	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On June 25, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the expired resident insurance producer license of applicant Stephen R. McIntire. After reviewing the Petition, 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. Stephen R. McIntire ("McIntire") is a Missouri resident with a business, residential, and mailing address of record of 10909 North Madison Avenue, Kansas City, Missouri 64155.

2. On August 13, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") issued to McIntire a resident insurance producer license, number 8193207, which expired August 13, 2014.

3. On November 12, 2014, the Department electronically received McIntire's completed Uniform Application for Individual Producer License Renewal/Continuation ("Application").

4. On July 25, 2013, the Department received a letter from The Reliable Life Insurance Company, a Missouri corporation ("Reliable"), declaring that it had terminated McIntire's appointment to conduct business on its behalf effective July 12, 2013.

5. By letter dated September 9, 2013, Reliable notified the Department that it had completed its internal audit and discovered that McIntire collected "at least $2,270.07 from policyholders that were not deposited with the" insurer.

6. On December 2, 2013, Special Investigator Dennis Fitzpatrick, with the Consumer Affairs Division of the Department ("Special Investigator Fitzpatrick" of the "Division"), mailed McIntire an inquiry letter by first-class mail, postage prepaid ("first inquiry letter"), asking him for "a detailed letter of explanation" regarding the insurance premiums McIntire allegedly withheld or misappropriated from Reliable, and advising him that "[p]ursuant to 20 CSR 100-4.100, your response to this matter is due ... December 23, 2013. Failure to respond could result in disciplinary action by this Department."

7. The first inquiry letter was not returned to the Division as undeliverable; therefore, McIntire is presumed to have received it.

8. The Division has received no correspondence or communication from McIntire since sending the first inquiry letter, nor has McIntire demonstrated a reasonable justification for the delay.

9. After reviewing McIntire's subsequent Application, on November 21, 2014, Special Investigator Fitzpatrick mailed McIntire another inquiry letter by first-class mail, postage prepaid ("second inquiry letter"), again asking him for "a detailed letter of explanation" regarding the insurance premiums McIntire allegedly withheld or misappropriated from Reliable, and advising him that "[p]ursuant to 20 CSR 100-4.100, your response to this matter is due ... December 12, 2014. Failure to respond could result in disciplinary action by this Department."

10. The second inquiry letter was not returned to the Division as undeliverable; therefore, McIntire is presumed to have received it.

11. The Division has received no correspondence or communication from McIntire since sending the second inquiry letter, nor has McIntire demonstrated a reasonable justification for the delay.

12. On December 23, 2014, Special Investigator Fitzpatrick mailed McIntire another inquiry letter by first-class mail, postage prepaid ("third inquiry letter"), again asking him for "a detailed letter of explanation" regarding the insurance premiums McIntire allegedly withheld or misappropriated from Reliable, and advising him that "[p]ursuant to 20 CSR 100-4.100, your response to this matter is due ... January 14, 2015. Failure to respond could result in disciplinary action by this Department."

13. The third inquiry letter was not returned to the Division as undeliverable; therefore, McIntire is presumed to have received it.

14. The Division has received no correspondence or communication from McIntire since sending the third inquiry letter, nor has McIntire demonstrated a reasonable justification for the delay.

CONCLUSIONS OF LAW

15. Section 375.141.1, RSMo[1] provides, in relevant part:

> 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:
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> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> * * *
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business; [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[.]

16. Section 375.144 provides, in relevant part:

> It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:
>
> * * *
>
> (4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

[1] All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

17. Title 20 CSR 100-4.100(2)(A) 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.

18. "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. E.D. 2000) (internal citation omitted).

19. "The principal purpose of § 375.141 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).

20. The Director may refuse to renew McIntire's resident insurance producer license pursuant to § 375.141.1(2) because McIntire has thrice violated a regulation of the Director, specifically 20 CSR 100-4.100(2)(A), by not mailing timely and adequate responses to each of three Division inquiry letters, and not demonstrating reasonable justification for the delays.

21. Each violation of 20 CSR 100-4.100 by McIntire constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(2).

22. The Director may refuse to renew McIntire's resident insurance producer license pursuant to § 375.141.1(2) because McIntire has violated an insurance law, specifically § 375.144(4), by failing to remit premiums he collected from Reliable policyholders to the insurer, which operated as a fraud or deceit upon the policyholders and Reliable.

23. The Director may refuse to renew McIntire's resident insurance producer license pursuant to § 375.141.1(4) because McIntire improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business, specifically the insurance premium payments he collected on behalf of Reliable from its policyholders.

24. The Director may refuse to renew McIntire's resident insurance producer license pursuant to § 375.141.1(8) because McIntire used fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business by failing to remit premiums he collected from Reliable policyholders to the insurer, who had trusted him to act on its behalf.

25. The Director has considered McIntire's history and all of the circumstances surrounding McIntire's Application. Renewing McIntire's resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew McIntire's resident insurance producer license.

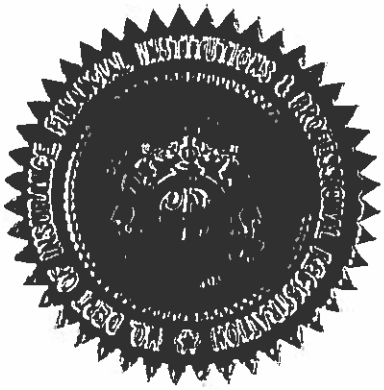
26. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license renewal application of Stephen R. McIntire is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25 **DAY OF** June, **2015.**



JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

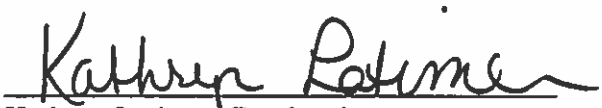
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 26th day of June, 2015, a true and complete copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Stephen R. McIntire
10909 North Madison Avenue
Kansas City, Missouri 64155-7306

No. 1Z0R15W84292500756



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov