State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
	)	Case No. 110204145C
Michael Dale Stacey,	)	
	)	
Renewal Applicant.	)	
	)	
Serve at:	)	
	)	
9902 N. 118th East Avenue	)	
Owasso, Oklahoma 74055	)	

ORDER REFUSING TO RENEW INSURANCE PRODUCER LICENSE

On February 7, 2011, Tamara W. Kopp, Senior Enforcement Counsel and counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew Michael Dale Stacey's non-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 summary order.

FACTUAL BACKGROUND

1. Michael Dale Stacey ("Stacey") is an individual residing in Oklahoma, whose residential, business and mailing address of record is 9902 N. 118th East Avenue, Owasso, Oklahoma 74055.

2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") first issued Stacey a non-resident insurance producer license on February 11, 2003 (License No. 0299981). Such license is set to expire February 11, 2011.

3. On December 7, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic non-resident insurance producer renewal application ("Application") from Stacey.

4. On the Application, in the section titled "Background Questions," Background Question # 2 asks, "Have you been named or involved as a

party in an administrative proceeding regarding any professional or occupational license or registration, which has not been previously reported to this state?" Stacey answered "No." to Background Question # 2.

5. The Arkansas Insurance Commissioner revoked Stacey's Arkansas insurance producer license through a Consent Revocation Order ("Arkansas Consent Revocation"). The Arkansas Insurance Commissioner found that Stacey violated Ark. Code Ann. §§ 23-64-216, 23-64-512, 23-66-307, 23-66-206, and 23-64-506 by improperly replacing twenty-one life policies without completing a replacement form as required by the Arkansas Insurance Code. In the Consent Revocation Order the Arkansas Insurance Commissioner found that Stacey committed an unfair trade practice by churning business without following the provisions of Ark. Code Ann. § 23-66-307 and showing a betterment of position for the insured. The Arkansas Insurance Commissioner further found that Stacey no longer was qualified to be an insurance producer because he was no longer competent, trustworthy, financially responsible and of good business reputation. *In the Matter of Michael Dale Stacey License No. 116882*, A.I.D. No. 2009-070, September 10, 2009.

6. At the time of the Application, Stacey had not previously reported the Arkansas Consent Revocation to the Department.

7. Investigator Crutchfield sent a letter to Stacey inquiring as to why Stacey had not reported the Arkansas Consent Revocation to the Department or disclosed it on his Application.

8. Stacey responded by letter dated January 21, 2011, stating, in part:

> I was not aware that I was required to provide notice of the revocation to the State of Missouri, and my judgment was impaired by my mental state at the time . . . When I applied for my renewal, I inadvertently checked the wrong box on the reporting form, because I thought the Consent revocation did not apply. I realize that I have made mistakes, and am willing to pay the necessary fines required in punishment.

CONCLUSIONS OF LAW

9. Section 375.141 RSMo (Supp. 2010),[1] provides, in part:

> 1. The director may suspend, revoke, refuse to issue or refuse to

[1] All statutory references are to the Revised Statutes of Missouri (Supp. 2010) unless otherwise noted.

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;

* * *

6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

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

11. The Director may refuse to renew Stacey's insurance producer license pursuant to § 375.141.1(9) because the Arkansas Insurance Commissioner revoked Stacey's Arkansas insurance producer license, or its equivalent. *In the Matter of Michael Dale Stacey License No. 116882*, A.I.D. No. 2009-070, September 10, 2009.

12. The Director may refuse to renew Stacey's insurance producer license pursuant to § 375.141.1(2) because by failing to report the Arkansas Consent Revocation within thirty days of the final disposition of the matter, Stacey violated § 375.141.6. Stacey's claim that he "was not aware that I was required to provide notice of the revocation to the State of Missouri" is no defense or excuse for failing to follow the law. *See*

Cooper County Bank v. Bank of Bunceton, 288 S.W. 95 (Mo. App. 1926) (generally, ignorance of the law is no defense); *Gaines v. Missouri Ethics Comm'n*, 09-1041 EC (Mo. Admin. Hrg. Comm'n December 3, 2009) (citing *Poe v. Illinois Central Railroad Co.*, 99 S.W.2d 82 (Mo. 1936)).

13. The Director may refuse to renew Stacey's insurance producer license pursuant to § 375.141.1(2) because Stacey violated the Arkansas insurance laws. *In the Matter of Michael Dale Stacey License No. 116882*, A.I.D. No. 2009-070, September 10, 2009.

14. The Director may refuse to renew Stacey's insurance producer license pursuant to § 375.141.1(1) because by failing to disclose the Arkansas Consent Revocation on the Application, Stacey intentionally provided materially incorrect, misleading, incomplete or untrue information on the Application.

15. The Director may refuse to renew Stacey's insurance producer license pursuant to § 375.141.1(3) because by failing to disclose the Arkansas Consent Revocation on the Application, Stacey attempted to obtain a license through material misrepresentation or fraud. Stacey claims his failure to disclose the Arkansas Consent Revocation was "inadvertent" because he "thought the Consent revocation did not apply" to the Missouri Application. Stacey's explanation defies logic. How can his failure to disclose the Arkansas Consent Revocation be "inadvertent," which suggests Stacey intended to check "Yes" but mistakenly checked "No" (in response to Background Question # 2) when he admits that he did not think the Arkansas Consent Revocation applied because it was a "Consent revocation"? It is more likely true that Stacey intentionally concealed the Arkansas Consent Revocation because he knew it would be material to the Director's decision whether or not to license Stacey as an insurance producer.

16. The Director has considered Stacey's history and all of the circumstances surrounding Stacey's Application for licensure and exercises his discretion in summarily refusing to renew Stacey's insurance producer license.

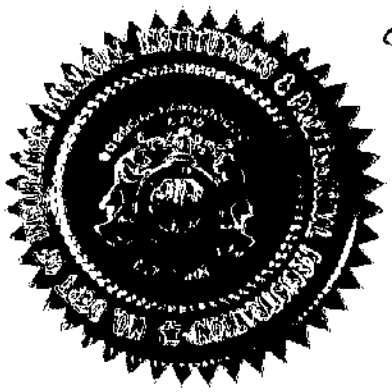
17. Renewing Stacey's insurance producer license would not be in the public interest.

18. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer renewal application of Michael Dale Stacey is hereby summarily REFUSED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 8TH DAY OF FEBRUARY, 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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 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 10th day of February, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 70070710000220552329.

Michael Dale Stacey
9902 N. 118th East Avenue
Owasso, Oklahoma 74055.

Kathryn Randolph