State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Tracy Don Tafoya,	)	
	)	Case No. 10-0617486C
Applicant.	)	Tracking No. 103386
	)	
Serve at:	)	
	)	
4230 N.E. 46th St.	)	
Kansas City, MO 64117	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On April 15, 2011, Andy Heitmann, 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 Tracy Don Tafoya. 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. Tracy Don Tafoya ("Tafoya") is an individual residing in Missouri, with a mailing address of record of 4230 N.E. 46th St., Kansas City, Missouri, 64117.

2. Tafoya held a Missouri insurance producer license for the line of authority of life insurance from October 15, 2008, until its expiration on October 15, 2010. Tafoya has not applied for renewal of his license for this line of authority.

3. On or about April 9, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a Uniform Application for Individual Producer License submitted by Tafoya (the "Application") for the line of authority of health insurance.

4. In the Application, Tafoya provided the address alleged in Paragraph 1 of this Petition as his mailing address.

5. At no time since he submitted his Application has Tafoya informed the Department of any change in his address.

6. In the section of the Application headed "Background Questions," Background

Question # 7 asks "Do you have a child support obligation in arrearage?"

7. Tafoya answered "Yes" to Background Question # 7 and further indicated that he was three months in arrearage but was not subject to a repayment agreement or a child support related subpoena or warrant.

8. On May 18, 2009, Special Investigator Dana Whaley ("Whaley") left a voicemail message for Tafoya asking Tafoya to call her regarding the child support arrearage reported on his application.

9. Having received no response to the voicemail, Whaley mailed a letter to Tafoya on May 27, 2009, at his 46th Street address of record, requesting evidence of his child support compliance.

10. Whaley received no response to the May 27, 2009 letter.

11. The May 27, 2009 letter was not returned as undeliverable.

12. Whaley mailed a second letter to Tafoya on June 23, 2009, at his 46th Street address of record.

13. Whaley received no response to the June 23, 2009 letter.

14. The June 23, 2009 letter was not returned as undeliverable.

15. On January 12, 2010, the Director issued a subpoena for Tafoya's appearance on February 4, 2010, at the Department to testify under oath. The subpoena was never returned as undeliverable, but a track and confirm search through the U.S. Post Office revealed delivery attempts on January 14, 2010 and January 19, 2010 with no other updates after January 19. The "green card" was never returned to the Department, and Tafoya failed to appear on February 4, 2010.

16. Tafoya has failed to respond to any attempted correspondence from the Department and has offered no justification for his failures to respond.

CONCLUSIONS OF LAW

17. Section 375.141.1, RSMo (Supp. 2010), provides, in 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:
>
> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other

state[.]

18. 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.

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. Tafoya may be refused an insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2010), because by failing to respond to two inquiries by the Department's Consumer Affairs Division, Tafoya twice violated regulation 20 CSR 100-4.100(2)(A).

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

22. Refusal to issue Tafoya's insurance producer license application is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Tracy Don Tafoya is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 18TH DAY OF APRIL, 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 19th day of April, 2011, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified/priority mail No. 7004 1350 0031413520 1 PRIORITY 0307333000007083 1152

Tracy Don Tafoya
4230 N.E. 46th St.
Kansas City, MO 64117

Kathryn Randolph
Paralegal

CERTIFICATE OF SERVICE

After being sent via certified mail (see original certificate of service) which was returned to the Department as forward time expired, the undersigned hereby certifies that a true and correct copy of the foregoing, including all attachments, was mailed, with sufficient postage attached, via regular and priority mail 03073330000070831442 through the United States Postal Service, on this 26th day of April, 2011 to:

Tafoya Tracy
213 NW 63rd St. Apt., 106
Gladstone, MO 64118-3815