



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:

Michael R. Volts,

Applicant.

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) Case No. 121001547C
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ORDER REFUSING TO ISSUE NON-RESIDENT INSURANCE PRODUCER LICENSE

On December 20, 2012, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a non-resident insurance producer license to Michael R. Volts. 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. Michael R. Volts ("Volts") is an individual residing in Florida whose business, residence, and mailing address is 837 Crestview Circle, Weston, Florida 33327.
2. On or about September 16, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") suspended Volts' FINRA registration for failure to comply with an arbitration award or settlement agreement or to satisfactorily respond to FINRA requests to provide information concerning the status of compliance. ("2010 FINRA Suspension").
3. On June 19, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic Uniform Application for Individual Insurance Producer License ("Application") submitted on behalf of Volts.
4. Heather Woodard submitted the Application on behalf of Volts as an "authorized submitter," and she attested that "[a]s the authorized submitter, I declare that the applicant provided all the information submitted on this application."

5. By submitting the Application, Volts swore that the following statement was true:

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. In the section of the Application headed "Background Questions," Background Question #2 asks:

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?

7. Volts answered "No" to Background Question #2. Volts did not disclose the 2010 FINRA Suspension.
8. On June 25, 2012, Lynda Kammeier, Special Investigator with the Department's Consumer Affairs Division, sent a letter to Volts at Volts' address of record inquiring as to why Volts failed to disclose the 2010 FINRA Suspension on the Application. Kammeier's letter required a response by July 18, 2012. Kammeier's letter was not returned as undeliverable. Volts failed to respond to Kammeier's June 25, 2012 letter and never contacted the Department to provide a reasonable justification for a delayed response.
9. On July 19, 2012, Kammeier sent a second request for information to Volts. Kammeier's second letter required a response by August 8, 2012, and was sent by first class and certified mail. Kammeier's letter was not returned as undeliverable and the certified mail was delivered on July 24, 2012. Volts failed to respond to Kammeier's July 19, 2012 letters and never contacted the Department to provide a reasonable justification for a delayed response.
10. On August 9, 2012, Kammeier sent a third request for information to Volts. Kammeier's third letter required a response by August 29, 2012, and was sent by first class and certified mail. Kammeier's letter was not returned as undeliverable and the certified mail was delivered on August 15, 2012. Volts failed to respond to Kammeier's August 9, 2012 letters

and never contacted the Department to provide a reasonable justification for a delayed response.

CONCLUSIONS OF LAW

11. Section 375.141.1 RSMo (Supp. 2012),¹ 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:

- (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[.]

12. 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.

13. "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).
14. 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. 1984).

¹ All statutory references are to the 2012 Supplement to the Revised Statutes of Missouri, unless otherwise indicated.

15. Volts may be refused a non-resident insurance producer license pursuant to § 375.141.1(1) because by answering "No" to Background Question #2, Volts intentionally provided materially incorrect, misleading, incomplete or untrue information on his Application. Volts' answer to Background Question #2 was materially incorrect, misleading, incomplete, or untrue in that he had "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" in that FINRA suspended his FINRA registration in 2010.
16. Volts may be refused a non-resident insurance producer license pursuant to § 375.141.1(3) because by answering "No" to Background Question #2, Volts attempted to obtain a license through material misrepresentation or fraud. Volts' response to Background Question #2 was a material misrepresentation in that he had "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" in that FINRA suspended his FINRA registration in 2010. Such information is material because it appears Volts was attempting to conceal matters that may reflect negatively on his Application.
17. Volts may be refused a non-resident insurance producer license pursuant to § 375.141.1(2) because he violated a regulation, namely 20 CSR 100-4.100(2)(A), when he failed to respond to three inquiries from the Consumer Affairs Division (June 25, 2012, July 19, 2012, and August 9, 2012) and never contacted the Department to provide a reasonable justification for a delayed response.
18. The Director has considered Volts' history and all of the circumstances surrounding Volts' Application and exercises his discretion to refuse to issue Volts' non-resident insurance producer license.
19. Issuing Volts' non-resident insurance producer license would not be in the public interest.
20. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license application of Michael R. Volts is hereby REFUSED.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 21st
DAY OF DECEMBER, 20 12.



JOHN M. HUFF
DIRECTOR

NOTICE

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

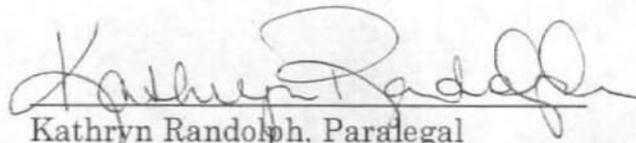
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to §621.120, RSMo. Under 1 CSR 15-3.290, unless you send your complaint by registered 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 21st day of December, 2012, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

Michael R. Volts
837 Crestview Circle
Weston, Florida 33327

Certified Mail No. 7009 3410 0001 9255 5924



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