State of Missouri
Department of Insurance, Financial Institutions &
Professional Registration

IN RE:	)	
	)	**Case No. 13-0131104C**
Misan V. Wiles,	)	
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE
INSURANCE PRODUCER LICENSE

On March 26, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to issue Misan V. Wiles a 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 order.

FINDINGS OF FACT

1. Misan V. Wiles ("Wiles") is an individual residing in North Carolina whose mailing address of record is 7038 Cardigan Avenue, Charlotte, North Carolina 28215.

2. On October 10, 2012, Wiles submitted an electronic non-resident insurance producer license application ("Application") to the Department of Insurance, Financial Institutions and Professional Registration ("Department").

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

   I hereby certify, under penalty of perjury, that 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.

4. Wiles signed the "Applicant's Certification and Attestation" section.

5. In the section of the Application headed "Background Information," Question # 2 asks, in relevant part:

Have you ever been named or involved as a party in an administrative proceeding, including a 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 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. "Involved" also means having a license 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, 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.

6. Wiles answered "No" to Question # 2.

7. On April 16, 2012, the Arkansas Insurance Department entered a Suspension Order, suspending Wiles' non-resident insurance producer license. *Ark. Ins. Dep't v. Misan V. Wiles*, Ark. Ins. Dep't, No. 2012-300.

   a. The Arkansas Suspension Order was an administrative proceeding.

   b. Wiles was named and involved in this administrative proceeding.

   c. Wiles failed to disclose this administrative proceeding on his Application.

8. On October 16, 2012, Consumer Affairs Division Special Investigator Karen Crutchfield ("Investigator Crutchfield") sent an inquiry letter to Wiles' mailing address by first class mail, requesting more information regarding the Suspension Order issued by the Arkansas Insurance Department. Wiles' reply was due on or before November 5, 2012.

9. The October 16, 2012 inquiry letter was not returned to the Department as undeliverable.

10. Wiles did not respond to the October 16, 2012 inquiry letter and did not contact the Department in any way to demonstrate a reasonable justification for a delayed response.

11. On November 7, 2012, Investigator Crutchfield sent another inquiry letter to Wiles by email, certified mail and first class mail to Wiles' mailing address. Wiles' reply was due on or before November 27, 2012.

12. The certified mail copy was returned as unclaimed. However, the first class mail copy was not returned as undeliverable.

13. Wiles did not respond to the November 7, 2012 inquiry letter and did not contact the Department in any way to demonstrate a reasonable justification for a delayed response.

14. On November 29, 2012, Investigator Crutchfield called the residence and business phone numbers listed on Wiles' Application, but was unable to reach Wiles.

15. On December 21, 2012, the Colorado Division of Insurance denied Wiles' application for licensure as a non-resident insurance producer. *Denial of License*, Co. Div. of Ins., Case No. EC6266.

CONCLUSIONS OF LAW

16. Section 375.141 RSMo (Supp. 2012),[1] 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[.]

17. 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.

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

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. 2000) (internal citations 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. 1984).

20. The Director may refuse to issue Wiles a non-resident insurance producer license pursuant to § 375.141.1(1) because Wiles intentionally provided materially incorrect, misleading, incomplete or untrue information on a license application by failing to disclose that he had been involved as a party to an administrative proceeding. *See Ark. Ins. Dep't v. Misan V. Wiles*, Ark. Ins. Dep't, Case No. 2012-300. In fact, the Arkansas Insurance Department suspended Wiles' license only six months prior to the submission of Wiles' Application.

21. The Director may refuse to issue Wiles a non-resident insurance producer license pursuant to § 375.141.1(2) because Wiles violated 20 CSR 100-4.100(2)(A) by failing to respond to Investigator Crutchfield's inquiry letters or demonstrate a reasonable justification for the delay. Each failure to respond is a separate and sufficient ground for refusal.

22. The Director may refuse to issue Wiles a non-resident insurance producer license pursuant to § 375.141.1(3) because Wiles attempted to obtain a license through material misrepresentation by failing to disclose the administrative proceeding regarding his Arkansas non-resident insurance producer license on his Application. *See Ark. Ins. Dep't v. Misan V. Wiles*, Ark. Ins. Dep't, Case No. 2012-300.

23. The Director may refuse to issue Wiles a non-resident insurance producer license pursuant to § 375.141.1(9) because Wiles' insurance producer license, or its equivalent, was suspended in Arkansas, and refused in Colorado. *See Ark. Ins. Dep't v. Misan V. Wiles*, Ark. Ins. Dep't, Case No. 2012-300; *Denial of License*, Co. Div. of Ins., Case No. EC6266. The suspension and refusal are each separate and sufficient grounds for refusal.

24. The Director has considered Wiles' history and all of the circumstances surrounding Wiles' Application for licensure and, for the reasons stated in this Order, exercises his discretion by refusing to issue Wiles a non-resident insurance producer license.

25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of **Misan V. Wiles** is hereby **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 27th **DAY OF** MARCH, **2013.**

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 29th day of March, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by U.S. mail and certified mail No. 7009 0080 0000 1907 5361.

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