State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Barbara A. Tapia,	)	Case No. 07A000272
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
127 Huntington Pk. St. Charles MO 63301	))	
	)	

COPY

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On August 21, 2007, Kathyrn Turner, as senior counsel for the Investigations Section of the Consumer Affairs Division, submitted a petition to the Director alleging cause for refusing to issue the insurance producer license of Barbara A. Tapia ("Applicant"). After reviewing the petition, and the investigative report, the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Barbara A. Tapia ("Applicant") is a Missouri resident with an address of 127 Huntington Pk., St. Charles, Missouri 63301

2. On April 2, 2007, Barbara A. Tapia ("Applicant') filed a Uniform Application for Individual Insurance Producer License ("Application") with the Department of Insurance, Financial Institutions and Professional Registration ("Department") seeking licensure as an insurance producer in the limited line of authority for travel.

3. Applicant had been previously licensed as an insurance agent, restricted to travel, from 1983 to 1991, which license expired on October 3, 1991.

4. On or about December 1, 2005, the Applicant telephoned the Insurance Licensing Section to inquire "what to do to get her license up to date." Applicant also stated

that she had continued to write travel insurance after her license expired.

5. Applicant remained unlicensed through the filing of her Application. On April 17, 2007, a letter was sent to Applicant requesting information concerning the solicitation, negotiation and sale of travel insurance without an insurance producer license from 1991 through April 2007.

6. Applicant failed to respond to the inquiry.

7. This order is in the public interest.

CONCLUSIONS OF LAW

8. Section 375.141.1 RSMo Cum. Supp. 2006 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…
>
> (8)…demonstrating incompetence in the conduct of business in this state…

9. Section 375.014, RSMo Cum. Supp. 2006 provides, in part:

> No person shall sell, solicit or negotiate insurance in this state for any class or classes of insurance unless he or she is licensed for that line of authority …."

10. Section 374.210.2 RSMo 2000 states:

> 2. Any person who shall refuse to give such director full and truthful information, and answer in writing to any inquiry or question made in writing by the director, in regard to the business of insurance carried on by such person…shall be deemed guilty of a misdemeanor…

11. Applicant may be disqualified and therefore, refused an insurance producer license under §375.141.1(2), RSMo Cum. Supp. 2006 for violating the provisions of §375.014, RSMo Cum. Supp. 2006 and §374.210.2 RSMo 2000 by selling, soliciting and negotiating insurance without a license and by refusing to give the Director full and truthful information and answer in writing to an inquiry made in writing by the Director. Not only is the conduct in violation of law, the conduct and failure to act demonstrates incompetence, a basis for refusal. The current

statute is to be properly applied to licensing actions. ***Huddlestonsmith v. Director of Insurance,*** Case No. 06-0161 DI (November 13, 2006); ***Polsky v. Director of Insurance***, Case No. 06-1458 DI (April 24, 2007).

Discretion

12. As §375.141, RSMo Cum. Supp. 2006 provides that the director "may" refuse a license, the director has discretion under this section for disqualifying Applicant on the basis of the foregoing conclusions. ***State Bd. Of Regis'n for the Healing Arts v. Finch***, 514 S.W. 2d 608 (Mo. App., E.D. 1984).

13. The issuance of a license to an applicant for an insurance producer license "places the seal of the state's approval upon the licentiate and certifies to the public that he possess these requisites [competency, skill...]" ***State ex rel. Lentine v. State Bd. Of Health***, 66 S.W. 2d 943, 950 (Mo. 1993) cited in ***David R. Hess v. Director of Insurance***, No. 93-000368DI, p.4, footnote 5 (Mo. Admin. Hearing Comm'n August 9, 1993). Applicant's unlicensed and therefore unlawful activity during a six year time period and her failure to respond to a request from the Director's designee reviewing her application for a Missouri insurance producer license, Applicant has demonstrated incompetence. Being responsive to the regulatory agency issuing her license is a basic duty which she has failed to perform and is a violation of a specific Missouri law requiring a response. Applicant cannot be given the state's seal of approval.

14. In applying this discretion, the Director has considered the history of the Applicant and all of the circumstances surrounding the Applicant's Application, including the Consumer Affairs Division's effort to obtain information from Applicant and her failure to respond. The Applicant's history raises additional questions regarding Applicant's ability to comply with Missouri law and whether she has demonstrated that he can meet the significant responsibilities of a licensed insurance producer in the near future. For all of these reasons, the Director exercises his discretion in refusing to license the Applicant.

15. The Director, in making this decision, has considered all of the information within the whole record of application as presented by the Applicant as well as the information gathered by the Consumer Affairs Division. Any failure to specifically address a piece of evidence, information, position or argument of any party does not indicate that the Director has failed to consider relevant information, but indicates rather that the omitted material was not dispositive of the Director's decision.

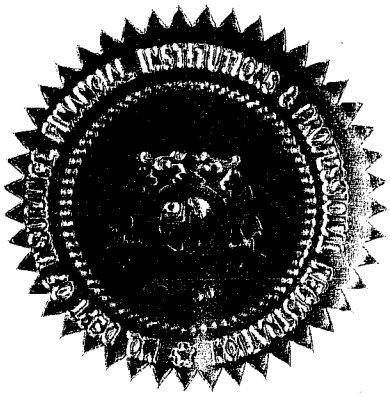
16. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the issuance of the insurance producer license of Applicant Barbara A. Tapia is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 23rd DAY OF August, 2007.



DOUGLAS M. OMMEN
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.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of August, 2007, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified mail.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff