



DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:)
)
 OSCAR MARIO HERNANDEZ,) Case No. 2112271334C
)
 Applicant.)

ORDER REFUSING TO ISSUE
A NON-RESIDENT INSURANCE PRODUCER LICENSE

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance, takes up this matter for consideration and disposition. After reviewing the Petition, the Investigative Report, and other relevant documents, the Director issues these findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Oscar Mario Hernandez (“Hernandez”) is a resident of the state of California with a reported residential address, business and mailing address of 2705 Garnet Lane, Lancaster, California 93535-5920. His reported business email address is oscar@greatlaneins.com, and his reported individual email address is oscarmh00@gmail.com.
2. On June 1, 2020, the Department of Commerce and Insurance (“Department”) received Hernandez’s electronic application for a non-resident insurance producer license.
3. Background Question No. 2 on the Application 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? "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, sanctioned 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, or registration. "Involved" also means having a license, or registration 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 or 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. If you answer yes, you must attach to this application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

4. Hernandez answered "Yes" to Background Question No. 2 and provided an Order of Summary Denial of Unrestricted License and for Issuance of a Restricted License ("California 2016 Order") entered by the California Department of Insurance ("CDI"). The 2016 Order revealed that on or about October 7, 2013, CDI issued an Order revoking Hernandez's license to act as an insurance agent in the state of California. The California 2016 Order further revealed that on or about January 7, 2016, CDI denied Hernandez's application for an unrestricted license and issued Hernandez a restricted license to act as an insurance agent in California.
5. Kevin Davidson ("Davidson"), Special Investigator with the Department's Consumer Affairs Division ("Division"), obtained a copy of the October 7, 2013, Order ("2013 Order") revoking Hernandez's license to act as an insurance agent in the state of California. The 2013 Order indicates that Hernandez failed to notify CDI of two misdemeanor convictions as required by the California Insurance Code section 1729.2. The 2013 Order further shows that Hernandez did not respond to inquiries sent to him by CDI and did not notify CDI of a change of his address all in violation of the California Insurance Code, sections 1736.5 and 1729.

6. Background Question No. 4 asks:

Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement? If you answer yes, identify the jurisdictions(s).
7. Hernandez answered “No” to Background Question No. 4.
8. An investigation conducted by the Division revealed that there were two federal tax liens filed against Hernandez. On March 8, 2017, the United States Internal Revenue Service (“IRS”) filed a federal tax lien against Hernandez in the Los Angeles County, California Recorder of Deeds office for \$49,442.00. On May 17, 2019, the IRS filed a federal tax lien against Hernandez in the Clark County, Nevada Recorder’s office for the amount of \$14,293.00
9. On June 9, 2020, Davidson sent Hernandez an inquiry letter to his address of record. The inquiry letter cited 20 CSR 100-4.100(2)(A) and informed Hernandez that, pursuant to the cited regulation, his response was due within twenty days. The June 9, 2020, inquiry letter also informed Hernandez that a failure to respond could lead to disciplinary action by the Department. Additionally, the June 9, 2020, inquiry letter asked for information regarding the two federal tax liens identified above in paragraph 8.
10. The United States Postal Service did not return the Division’s June 9, 2020, inquiry letter as undeliverable, and therefore Hernandez is presumed to have received it.
11. Hernandez did not respond to the Division’s June 9, 2020, inquiry letter, nor did he demonstrate a reasonable justification for the delay.
12. Because Hernandez did not respond to the June 9, 2020, inquiry letter, on April 5, 2021, Davison sent a second inquiry letter to Hernandez at his address of record. The second inquiry letter cited 20 CSR 100-4.100(2)(A) and informed him that a response was due within twenty days. The second inquiry letter also informed Hernandez that a failure to respond could result in disciplinary action by the Department.
13. The United States Postal Service did not return the Division’s April 5, 2021, second inquiry letter as undeliverable, and therefore Hernandez is presumed to have received it.
14. Hernandez did not respond to the Division’s April 5, 2021, inquiry letter, nor did he demonstrate a reasonable justification for the delay.

15. On November 17, 2021, Davidson left Hernandez a voicemail message requesting that he return the call as soon as possible. On November 24, 2021, Hernandez returned Davidson's call. During the call, Hernandez acknowledged that he knew of the two federal tax liens and stated that he was currently making payments on both liens. Davidson asked Hernandez to provide documentation of those payments, but Hernandez did not provide anything to show he was in fact making payments.

CONCLUSIONS OF LAW

16. Section 375.141, RSMo (2016),¹ states, in relevant 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. Rule 20 CSR 100-4.100(2)(A), Required Response to Inquiries by the Consumer Affairs Division, is a rule of the Director and 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.

¹ All civil statutory references are to the Revised Statutes of Missouri (2016) unless otherwise indicated.

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 Director may refuse to issue Hernandez a non-resident insurance producer license pursuant to § 375.141.1(2) because he failed to respond to two inquiry letters sent by the Division and did not provide any justification for that failure. Failing to respond to the two inquiry letters violates a regulation duly promulgated by the director, 20 CSR 100-4.100(2)(A).
20. The Director may refuse to issue Hernandez a non-resident insurance producer license pursuant to § 375.141.1(2) because he failed to respond to inquiries from CDI, failed to notify CDI of a change of address and failed to inform CDI of his two misdemeanor convictions in violation of the California Insurance Code, sections 1736.5 and 1729, which is a violation of the insurance laws of another state.
21. The Director may refuse to issue Hernandez a non-resident insurance producer license pursuant to § 375.141.1(1) because he failed to disclose two federal tax liens on his application. Hernandez answered “No” to Background Question No. 4, which specifically asks the applicant whether he/she has received notice of any tax liens filed in any jurisdiction.
22. The Director may refuse to issue Hernandez a non-resident insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through a material misrepresentation. Although Hernandez admitted to Davidson that Hernandez was aware of the two federal tax liens, he did not disclose them on his license application, the inference being that he did so in an attempt to obtain a license.
23. The Director may refuse to issue Hernandez a non-resident insurance producer license pursuant to § 375.141.1(9) because in 2013, CDI revoked his California insurance producer license. Further, in 2016, CDI denied Hernandez’s application for an unrestricted license and instead issued him a restricted license.
24. Accordingly, and for all of the reasons given in this Petition, the Director has considered Hernandez’s history and all of the circumstances surrounding Hernandez’s Application and is exercising her discretion to refuse Hernandez’s Application for an insurance producer license.
25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license Application of **Oscar Mario Hernandez** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 17th **DAY OF** August **, 2022.**



Chlora Lindley Myers
CHLORA LINDLEY-MYERS
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. Pursuant to 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.

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August 2022, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United States Parcel Service, signature required, at the following address:

Oscar Mario Hernandez
2705 Garnet Lane
Lancaster, CA 93535-5902

Tracking No. 1Z0R15W83592085942

A handwritten signature in blue ink that reads "Kathryn Latimer". The signature is written in a cursive style and is positioned above a horizontal line.

Kathryn Latimer
Missouri Department of Commerce
and Insurance
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
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