



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:)

MICHAEL A. LAMBOY,)
Renewal Applicant.)

Case No. 13-1007553C

ORDER REFUSING TO RENEW **NON-RESIDENT INSURANCE PRODUCER LICENSE**

On October 9, 2013, Carolyn H. Kerr, Legal Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew the non-resident producer license of Michael A. Lamboy. 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 A. Lamboy ("Lamboy") is an individual residing in New York.
2. On or about October 1, 2013, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Lamboy's Electronic Renewal Application ("Renewal Application").
3. In his Renewal Application, Lamboy listed his residential address as 1758 Pacific St., Brooklyn, New York 11233-3506, his business address as 80 Broad St., New York, New York 10004, and his mailing address as 8201 Ridgpoint Drive, Irving, Texas 75063.
4. Lamboy was originally licensed as a non-resident insurance producer (No. 8083728) on October 17, 2011, and such license is set to expire on October 17, 2013.
5. In completing his Renewal Application, Lamboy attested under penalty of perjury to the truthfulness and completeness of the information he provided in the Renewal Application, including his answers to the questions in the section relating to the applicant's administrative proceeding history ("Background Questions").
6. In the section of Application headed "Background Questions," Background Question No. 2 asks, in relevant part: "Have you 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, which has not been previously reported to this insurance department?"

7. Lamboy answered “No” to Background Question No. 2.

8. Lamboy was Series 6 and 63 registered with the United States Financial Industry Regulatory Authority (“FINRA”) from approximately 2005 through February 2011.

9. On March 15, 2012, FINRA initiated a regulatory action against Lamboy alleging Conversion of Funds (FINRA Rule 2010) and Failure to Cooperate (FINRA Rules 8210 and 2010), as follows:

- a. From approximately November 2010 to December 2010, Lamboy, a dual employee of the Chase Investment Services Corp. (a firm) and J.P. Morgan Case Bank, N.A., “converted approximately \$1,860 from at least three Bank customers;”
- b. “Without the knowledge or authorization of the Bank customers, Lamboy withdrew funds from the customers’ Bank accounts for his personal benefit;”
- c. Lamboy admitted “that he withdrew Bank customers’ funds;” and
- d. “Lamboy’s failure to appear for and testify under oath on oral examination as requested constitutes a violation of FINRA Rules 8210.”

Department of Enforcement v. Michael A. Lamboy, Financial Industry Regulatory Authority, Disciplinary Proceeding No. 2011026468501.

10. On July 26, 2012, FINRA entered a Default Decision against Lamboy finding as follows:

- a. “Lamboy violated FINRA Rule 2010” by improperly converting “customer funds to his own use without authorization” and by violating his “duty to cooperate and provide information pursuant to Rule 8210;” and
- b. “Lamboy violated FINRA Rule 8210 by his failure to provide testimony sought pursuant to that Rule.”

Id. As a result, FINRA barred Lamboy permanently “from association with any FINRA member firm in any capacity.” The FINRA decision became final on August 23, 2012. Lamboy did not appeal the FINRA decision.

11. On or about May 20, 2013, the South Dakota Department of Labor and Regulation (“South Dakota Department”) sent Lamboy a letter via certified mail notifying him that his application for licensure as a non-resident insurance producer was denied. In its letter, the South Dakota Department informed Lamboy of its reasons for denial, as follows:

Your application indicated that you were not involved in any prior administrative

actions. However, the Division's investigation revealed that you were subject to a FINRA action in 2012 in which you were barred from association with any FINRA member in any capacity. The Division contacted you requesting additional information about this action at the mailing address listed on your application You did not respond to the Division's letter.

12. As a result, the South Dakota Department denied Lamboy's application "based upon SDCL 58-30-167(1) and (3) for providing incorrect, misleading and incomplete information in [his] application and attempting to obtain a license through misrepresentation and fraud." Lamboy did not appeal the South Dakota denial.

13. The South Dakota Department's letter informed Lamboy that its "denial is considered an administrative action which will be reported to the data based maintained by the National Association of Insurance Commissioners" and that as an insurance producer, he "may be required to report the action to any and all states in which an insurance license is held."

14. On August 7, 2013, the Connecticut Insurance Department entered an Order for Default Judgment and Order of Revocation ("Connecticut Order") against Lamboy based on a Complaint dated June 24, 2013, alleging the following:

- a. "The Department received a Special Activities Disclosure relative to an administrative action taken by FINRA ... which permanently barred [Lamboy] from association with any FINRA member in any capacity."
- b. The FINRA action "was based on [Lamboy's] alleged misconduct relative to his termination of employment ... as a result of [Lamboy's] withdrawal of funds from clients' bank accounts for [Lamboy's] own personal use, without the knowledge or consent of the clients;"
- c. Lamboy failed to report the FINRA action to the Connecticut Insurance Department "within 30 days, as required by Sections 38a-702o and 38a-771 of the Connecticut General Statutes;"
- d. Lamboy's conduct, as described by the FINRA action, "if true, is in violation of Sections 38a-769, 38a-702k, 38a-702o and 38a-771 of the Connecticut General Statutes;" and
- e. Lamboy failed to comply with the Connecticut Insurance Department's request for "a *full* written response to the allegations against him," in violation of 38a-16 and 38a-769 of the Connecticut General Statutes.

In the Matter of Michael A. Lamboy, Docket No. FC 13-77 (emphasis in original). Lamboy did not appeal the Connecticut Order revoking his insurance producer license.

15. On July 22, 2013, the Kentucky Department of Insurance entered an Order of Revocation ("Kentucky Order") against Lamboy revoking his Kentucky insurance license based

on the following findings:

- a. The South Dakota Department denial of Lamboy's license application;
- b. FINRA's action barring "Lamboy from any association with any FINRA member in any capacity;"
- c. FINRA's finding that Lamboy converted approximately \$1,860 from bank customers "by withdrawing funds from [customer] bank accounts for his personal benefit, without their knowledge or authorization," thereby violating KRS 304.9-400.
- d. Lamboy's failure "to report the South Dakota's and FINRA's actions to the [Kentucky] Department," thereby violating KRS 304.9-467(1);

As a result, the Kentucky Department found grounds under KRS 304.9-440(1)(b),¹ (h),² (i),³ (j),⁴ and (q)⁵ to revoke Lamboy's insurance agent's license. *In the Matter of Michael A. Lamboy*, DOI No. 793716, File No. 2013-205.

16. The Kentucky Order terminating Lamboy's license was effective upon the execution of the Order. *Id.* Lamboy did not appeal the Kentucky Order.

17. On September 25, 2013, the Commonwealth of Virginia, State Corporation Commission ("Virginia Corporation Commission") entered an Order Revoking License ("Virginia Order") based on its finding that Lamboy failed "to report to the Commission within 30 calendar days an administrative action that was taken against him by FINRA," thereby violating § 38.2-1826 C of the Code of Virginia. Lamboy did not appeal the Virginia Order.

18. Lamboy was a party to each of the above-described administrative actions taken against him by FINRA, the South Dakota Department, the Connecticut Insurance Department, the Kentucky Department, and the Virginia Corporation Commission.

19. Lamboy failed to report the administrative actions taken against him by FINRA, the South Dakota Department, the Connecticut Insurance Department, and the Kentucky Department to the Director as required by § 375.141.6 within 30 days of the final disposition of the matters.

20. Lamboy did not disclose any of the above-described administrative actions taken

¹ "Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the Commissioner or of another state's insurance Commissioner."

² "Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source or injury or loss to the public in the conduct of business in this state or elsewhere."

³ "Having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory."

⁴ "Revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction."

⁵ "An insurance license failing to no longer meet the requirements of initial licensure."

against him when he submitted his Renewal Application.

21. Lamboy made materially incorrect, misleading, incomplete, or untrue statements on his Application for the purpose of inducing the Department to renew his non-resident insurance producer license in Missouri.

CONCLUSIONS OF LAW

22. Section 375.141, RSMo (Supp. 2012)⁶ provides, in part, as follows:

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;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

* * *

6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

23. The dictionary definition of “material” is “having real importance or great consequences[.]” MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 765 (11th ed. 2004). *Missouri Bd. of Cosmetology and Barber Examiners v. Cuellar*, Mo. Admin. Hrg. Comm’n, No. 08-0750 CB (Dec. 31, 2008).

⁶ All statutory references are to RSMo (Supp. 2012) unless otherwise indicated.

24. "A misrepresentation is a falsehood or untruth made with the intent of deceit rather than inadvertent mistake." *State Bd. of Cosmetology v. Eddings-Schapeler*, Mo. Admin. Hrg. Comm'n, No. 05-0288 CS (June 29, 2006), citing *Hernandez v. State Bd. of Regis'n for Healing Arts*, 936 S.W.2d 894, 899 n.3 (Mo. App. W.D. 1997).

25. The principal purpose of § 375.141 is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

**CAUSE FOR ORDER REFUSING TO
RENEW NON-RESIDENT INSURANCE PRODUCER LICENSE**

26. The Director may refuse to renew Lamboy's non-resident insurance producer license pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete or untrue information in his Renewal Application, when he failed to disclose the administrative actions taken against him by FINRA, the South Dakota Department, the Connecticut Insurance Department, the Kentucky Department, and the Virginia Corporation Commission on his Renewal Application. Each failure to disclose an administrative action on his Renewal Application is a separate and sufficient cause to refuse to renew Lamboy's insurance producer license pursuant to § 375.141.1(1).

27. The Director may refuse to renew Lamboy's non-resident insurance producer license pursuant to § 375.141.1(2) because he violated the insurance laws of Connecticut, Kentucky, and Virginia, namely:

- a. Sections 38a-16, 38a-702o, 38a-769, and 38a-771 of the Connecticut General Statutes;
- b. Kentucky Revised Statutes 304.9-400 and 304.9-467(1); and
- c. Section 38.2-1826 C of the Code of Virginia.

Each violation of law is a separate and sufficient cause to refuse to renew Lamboy's insurance producer license pursuant to § 375.141.1(2).

28. The Director may refuse to renew Lamboy's non-resident insurance producer license pursuant to § 375.141.1(2) because he violated § 375.141.6, a Missouri insurance law, by failing to report administrative actions taken against him by FINRA, the South Dakota Department, the Connecticut Insurance Department, and the Kentucky Department within 30 days of the final disposition of the matters. Each failure to disclose an administrative action is a separate and sufficient cause to refuse to renew Lamboy's insurance producer license pursuant to § 375.141.1(2).

29. The Director may refuse to renew Lamboy's non-resident insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud, when he failed to disclose the administrative actions taken against him by FINRA, the South Dakota Department, the Connecticut Insurance Department, the

Kentucky Department, and the Virginia Corporation Commission on his Renewal Application. Each failure to disclose an administrative action on his Renewal Application is a separate and sufficient cause to refuse to renew Lamboy's insurance producer license pursuant to § 375.141.1(3).

30. The Director may refuse to renew Lamboy's non-resident insurance producer license pursuant to § 375.141.1(9) because Lamboy's insurance producer license, or its equivalent, was denied in South Dakota, or revoked in Connecticut, Kentucky, and Virginia. Each administrative action against Lamboy is a separate and sufficient cause to refuse to renew Lamboy's insurance producer license pursuant to § 375.141.1(9).

31. As found by FINRA and the Kentucky Department of Insurance, the Director may refuse to renew Lamboy's non-resident insurance producer license pursuant to § 375.141.1(8) because Lamboy's conduct was fraudulent or dishonest, or demonstrated untrustworthiness and financial irresponsibility.

32. The Director has considered Lamboy's history and all of the circumstances surrounding Lamboy's Renewal Application. Therefore, the Director exercises his discretion and refuses to renew Lamboy's non-resident insurance producer license.

33. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the RENEWAL of MICHAEL A. LAMBOY'S non-resident insurance producer license (No. 8083728) is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 10TH DAY OF OCTOBER, 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 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.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October, 2013, a copy of the foregoing notice and order was served upon Michael A. Lamboy in this matter by UPS and regular mail at the following address:

Michael A. Lamboy
1758 Pacific St.
Brooklyn, New York 11233-3506

Tracking No. 1Z0R15W84291440420

Michael A. Lamboy
80 Broad St.
New York, New York 10004

Tracking No. 1Z0R15W84291388630

Michael A. Lamboy
8201 Ridgepoint Drive
Irving, Texas 75063

Tracking No. 1Z0R15W84291081443



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