



FINAL ORDER
EFFECTIVE
5-08-2018

State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:

JAMES DAVID WILKINS II,

Applicant.

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Case No. 171215613C

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On January 18, 2018, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the nonresident insurance producer license application of James David Wilkins II. After reviewing the Petition, 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. James David Wilkins II ("Wilkins") is an Ohio resident with a residential address of 1920 Dallas Avenue, Apartment 1, Cincinnati, Ohio 45239-4749.
2. On May 23, 2017, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Wilkins's electronic application for a nonresident insurance producer license ("Application").
3. Wilkins answered "No" to Background Information Question 2 of the Application which asked, in relevant part:

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.

4. As a condition of submission, Wilkins accepted the Applicant's Certification and Attestation section of the Application which provided, in relevant part:

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.

5. The Consumer Affairs Division of the Department (the "Division") conducted an investigation and discovered the following administrative proceedings against Wilkins:
 - a. On March 1, 2012, the Lieutenant Governor and Director of the Ohio Department of Insurance issued an order imposing a \$1,000 civil penalty upon Wilkins for his noncompliance with a tax obligation. Order, *In re James D. Wilkins II*, Ohio Dep't of Ins., Hrg. No. LGL-0002792-H.
 - b. On August 30, 2012, the Virginia State Corporation Commission issued an order revoking Wilkins's insurance agent license for his failure to report the Ohio matter as required by law. Order Revoking License, *Virginia ex rel. State Corp. Comm'n v. Wilkins*, State Corp. Comm'n, Case No. INS-2012-00205.
 - c. On July 21, 2017, the Indiana Commissioner of Insurance issued an order denying Wilkins's application for an Indiana nonresident insurance producer license. Preliminary Administrative Order and Notice of License Denial, *In re James David Wilkins*, Ind. Comm'r of Ins., Cause No. 16265-AD17-0714-072.
6. On June 1, 2017, Special Investigator Angie Gross of the Division ("Special Investigator Gross") sent Wilkins a letter by first-class mail, postage prepaid, inquiring about the Ohio and Virginia administrative actions and why he failed to disclose them on his Application. The inquiry letter advised Wilkins that his response was due within twenty days, pursuant to 20 CSR 100-4.100(2)(A).
7. The United States Postal Service did not return the June 1, 2017 inquiry letter to the Division as being undeliverable, or for any other reason; therefore, Wilkins is presumed to have received it.
8. Wilkins did not respond to the June 1, 2017 inquiry letter.

9. On July 10, 2017, Special Investigator Gross sent Wilkins a second inquiry letter by the same method, requesting the same information and advising Wilkins that his response was due within twenty days, pursuant to 20 CSR 100-4.100(2)(A).
10. The United States Postal Service did not return the July 10, 2017 inquiry letter to the Division as being undeliverable, or for any other reason; therefore, Wilkins is presumed to have received it.
11. Wilkins did not respond to the July 10, 2017 inquiry letter.
12. On August 24, 2017, Special Investigator Gross sent Wilkins a third inquiry letter by the same method, and additionally by United States Postal Service certified mail, requesting the same information and advising Wilkins that his response was due within twenty days, pursuant to 20 CSR 100-4.100(2)(A).
13. The United States Postal Service did not return the August 24, 2017 inquiry letter to the Division as being undeliverable, or for any other reason; therefore, Wilkins is presumed to have received it.
14. Wilkins did not respond to the August 24, 2017 inquiry letter.
15. On October 3, 2017, Special Investigator Gross sent Wilkins a fourth inquiry letter by first-class mail, postage prepaid, requesting the same information and advising Wilkins that his response was due within twenty days, pursuant to 20 CSR 100-4.100(2)(A).
16. The United States Postal Service did not return the October 3, 2017 inquiry letter to the Division as being undeliverable, or for any other reason; therefore, Wilkins is presumed to have received it.
17. Wilkins did not respond to the October 3, 2017 inquiry letter.
18. Wilkins has not demonstrated any reasonable justification for his failure to respond to the Division's inquiry letters.
19. It is inferable that Wilkins did not disclose the administrative actions taken against him by Ohio and Virginia in response to Background Information Question 2 of the Application in order to misrepresent his qualifications for licensure and increase the chance that the Director would approve his Application and issue him a nonresident insurance producer license.

CONCLUSIONS OF LAW

20. Section 375.141.1, RSMo¹ provides, in relevant 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; [or]

* * *

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

21. Title 20 CSR 100-4.100(2)(A) is a regulation 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.

22. "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. E.D. 2000) (internal citation omitted).

23. A Virginia insurance agent license is equivalent to an insurance producer license.²

24. The Director may refuse to issue Wilkins a nonresident insurance producer license pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete, or untrue information in his Application by answering "No" to Background Information Question 2.

¹ All statutory references are to the 2016 Missouri Revised Statutes, unless otherwise indicated.

² See VA. CODE § 38.2-1800 (defining "insurance agent" and "insurance producer" interchangeably).

25. The Director may refuse to issue Wilkins a nonresident insurance producer license pursuant to § 375.141.1(2) because on four occasions he violated a regulation of the Director, 20 CSR 100-4.100(2)(A), by failing to respond to each of four Division inquiry letters without justification.
26. Each of Wilkins's violations of 20 CSR 100-4.100(2)(A) is a separate and sufficient ground for refusal pursuant to § 375.141.1(2).
27. The Director may refuse to issue Wilkins a nonresident insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud by answering "No" to Background Information Question 2 of the Application.
28. The Director may refuse to issue Wilkins a nonresident insurance producer license pursuant to § 375.141.1(9) because Virginia revoked his insurance agent license and Indiana denied him an insurance producer license. *See Virginia ex rel. State Corp. Comm'n v. Wilkins*, State Corp. Comm'n, Case No. INS-2012-00205; *In re James David Wilkins*, Ind. Comm'r of Ins., Cause No. 16265-AD17-0714-072.
29. Each insurance license that Wilkins has had revoked or denied by another jurisdiction is a separate and sufficient ground for refusal pursuant to § 375.141.1(9).
30. The Director has considered Wilkins's history and all of the circumstances surrounding Wilkins's Application. Issuing Wilkins a nonresident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Wilkins a nonresident insurance producer license.
31. This Order is in the public interest.

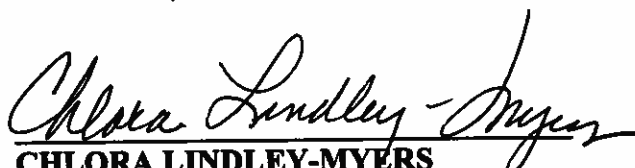
ORDER

IT IS THEREFORE ORDERED that the nonresident insurance producer license application of **James David Wilkins II** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF March, 2018.




CHLOREA LINDLEY-MYERS
DIRECTOR, Missouri Department of Insurance,
Financial Institutions and Professional Registration

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 3rd day of April, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

James David Wilkins II
1920 Dallas Avenue, Apartment 1
Cincinnati, Ohio 45239-4749

No. 1Z0R15W84291346658


Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-6515
Facsimile: (573) 526-5492
Email: Kathryn.Latimer@insurance.mo.gov