



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

DORIAN K. SAUNDERS,

Applicant.

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Case No. 14-0429443C

ORDER REFUSING TO ISSUE **AN INSURANCE PRODUCER LICENSE**

On July 30, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue an individual insurance producer license to Dorian K. Saunders. 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. Dorian K. Saunders ("Saunders") is a Missouri resident with a residential address of 806 Rockefeller Lane, St. Peters, Missouri, 63376.
2. Saunders held an individual Missouri insurance producer license from July 26, 2002, until July 26, 2008.
3. On February 19, 2008, the Department received a complaint from Shirley Woolfolk ("Woolfolk") who alleged she had been unable to access or retrieve any portion of investment funds provided to Saunders and that she was unable to contact Saunders.
4. Based upon Woolfolk's complaint, Special Investigator Ron Harrod ("Harrod") opened an investigation and on March 3, 2008, mailed Saunders a written inquiry requesting a written response to Woolfolk's complaint.
5. Harrod mailed the written inquiry by first class mail, with sufficient postage attached, to Saunders's address of record.
6. Saunders did not respond to the March 3, 2008 written inquiry within twenty days from the date it was mailed.
7. Saunders did not demonstrate any justification for his failure to respond to the written inquiry within twenty days of the date it was mailed.

8. On September 24, 2008, Saunders provided an untimely written response to the March 3, 2008 written inquiry.
9. In his written response, with regard to the Woolfolk complaint Saunders stated "She was retiring and needed options for sustained [i]ncome in 2006. Miss Woolfolk just want [sic] succured [sic] [g]auranteed [sic] [i]ncome to supplement her social security payment she was receiving."
10. Saunders also stated in his written response:

We set up an account in NolansFX and moved the remaining 15600 into that account. Initially she [Woolfolk] made a little over (\$7,000.00 or \$8,000.00). Instead of taking it out we stayed with it, until the following month, in an effort to cover the taxes and new car she was wanting. I sent her a statement wich [sic] shows this. Then market conditions change [sic] abruptly and her money was lost.

11. On October 11, 2008, Saunders signed a Letter of Acceptance, Waiver and Consent with Financial Industry Regulatory Authority ("FINRA") in which Saunders admitted unethical conduct and violating National Association of Security Dealers ("NASD") Procedure Rule 8210 and NASD Conduct Rule 2110, and consented to a bar from association with any FINRA member in any capacity (the "FINRA Sanction").¹
12. Saunders failed to report the FINRA Sanction to the Director within 30 days of its final disposition.
13. On November 24, 2008, Saunders entered into a Consent Order issued by the Missouri Secretary of State, through the Commissioner of Securities, which barred Saunders from registration as a broker-dealer agent or adviser representative in the State of Missouri (the "SOS Consent Order").²
14. Saunders failed to report the SOS Consent Order to the Director within 30 days of its final disposition.
15. On February 5, 2009, a subpoena conference was held at the Department at which Saunders appeared in order to answer questions regarding the Woolfolk complaint.

¹ Financial Industry Regulatory Authority (FINRA) Letter of Acceptance, Waiver and Consent No. 20070107204.

² *In the Matter of Dorian Saunders*, Before the State of Missouri Office of Secretary of State, Case No. AP-08-31.

16. During the subpoena conference, Saunders stated with regard to Woolfolk:
- a. "[S]he was getting ready to retire, and she was looking for income of around \$1,300 a month... for life. She wanted to make sure that her money would not – would not run out, and coupled with her security and the lifetime income that she wanted, she really didn't need or want a bulk of cash. She was a stability of income."
 - b. When asked by Harrod if Woolfolk understood the risk involved with the investment, Saunders stated "...I told her there was some risk, but I told her, you know, I wouldn't let that happen..."
 - c. Harrod also asked Saunders if the currency market was a relatively risky market to put money into and Saunders replied "Yeah. I would say it was, it was a horrible decision."
17. On June 11, 2009, in response to a renewal application from Saunders, the Director issued a Refusal to Renew Insurance Producer License (the "2009 Refusal"), refusing to renew Saunders's individual insurance producer license, citing cause for refusal under § 375.141.1(2) and (8), RSMo, for:
- a. Twice violating § 375.141.6 by failing to report within 30 days either of two administrative actions taken against him;
 - b. Violating 20 CSR 100-4.100 by failing to respond to an inquiry from the Consumer Affairs Division within 20 days; and
 - c. Demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in Missouri.³
18. Saunders did not appeal the 2009 Refusal.
19. On December 30, 2010, in response to another application from Saunders, the Director refused to issue a new individual Missouri insurance producer license to Saunders (the "2010 Refusal"), again citing cause for refusal under § 375.141.1(2) and (8), RSMo, for the same reasons as given in the 2009 Refusal.⁴
20. Saunders appealed the Director's 2010 Refusal to the Administrative Hearing

³ *In the Matter of Dorian Keith Saunders*, Before the Director of the Mo. Dept. of Insurance, Financial Institutions and Financial Registration, Case Nos. 08A000137 and 08A000645.

⁴ *In the Matter of Dorian Keith Saunders*, Before the Director of the Mo. Dept. of Insurance, Financial Institutions and Professional Registration, Case No. 101118700C.

Commission (AHC).

20. On July 13, 2011, the AHC issued its Decision, affirming the Director's cause for refusal.⁵
21. On January 28, 2014, the Department received Saunders's electronic Application for an individual Missouri insurance producer license (the "2014 Application").
22. Background Question No. 2 of the 2014 Application asks the following:

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?
23. Saunders marked "Yes" to Background Question No. 2.
24. Saunders attached a written statement to his 2014 Application, which acknowledged that the Director had refused to renew his Missouri insurance producer license⁶ but failed to disclose the 2010 Refusal and failed to attach a copy of the 2010 Refusal.
25. Saunders also initially failed to disclose the FINRA Sanction and the SOS Consent Order and failed to attach copies of the FINRA Sanction and the SOS Consent Order. After he was prompted by the Department's Licensing Section, Saunders provided copies of those documents.
26. It is inferable, and is hereby found as fact, that Saunders failed to disclose in his 2014 Application the 2010 Refusal in order to minimize to the Director the extent of his adverse regulatory history, and, accordingly, in order to improve the chances that the Director would approve his 2014 Application and issue him an insurance producer license.

⁵ *Saunders v. Dir. of Dept. of Insurance*, No. 11-0252 DI (Admin. Hrg. Comm'n July 13, 2011). The AHC affirmed cause for refusal under § 375.141.1(2) and (8), finding that Saunders had violated § 375.141.6 and 20 CSR 100-4.100 and had demonstrated financial irresponsibility in the conduct of business, but finding that Saunders had not used fraud, coercion or dishonesty, and had not demonstrated incompetence or untrustworthiness in the conduct of business.

⁶ Saunders's disclosure consisted of the statement, verbatim, "I was not renewed my Life and Health License at the end of 2007 because the state of Missouri felt I was a risk too society because of bad choices I've had to live with for the last 7 years of my life." This disclosure referred to only one license refusal—a refusal to renew. Saunders erroneously dates the refusal to renew "at the end of 2007," but the Director interprets this as a reference to and disclosure of the Director's 2009 Refusal, since that is the only refusal to renew Saunders's Missouri insurance producer license ever issued by the Director.

CONCLUSIONS OF LAW

27. Section 375.141 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;

* * *

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

* * *

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.

28. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

(2) Except as required under subsection (2)(B)—

(A) 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...unless the person can demonstrate that there is reasonable justification for that delay.

(B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter

response time shall be met. This regulation operates only in the absence of any other applicable laws.

29. 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. E.D. 1984).
30. The Director may refuse to issue Saunders an individual insurance producer license under § 375.141.1(1) because Saunders intentionally provided materially incorrect, misleading, incomplete or untrue information on his 2009 Renewal Application when Saunders failed to disclose in his 2009 Renewal Application the FINRA Sanction and the SOS Consent Order barring him from registration as a broker-dealer agent or adviser representative in the State of Missouri.
31. The Director also may refuse to issue Saunders an individual insurance producer license under § 375.141.1(3) because Saunders attempted to obtain a license through material misrepresentation or fraud when he failed to disclose in his 2014 Application the 2010 Refusal, in order to minimize to the Director the extent of his adverse regulatory history, and, accordingly, in order to improve the chances that the Director would approve his 2014 Application and issue him an insurance producer license.
32. The Director also may refuse to issue Saunders an individual insurance producer license under § 375.141.1(2) because Saunders failed to adequately respond within twenty days to the March 3, 2008 written inquiry from the Consumer Affairs Division, thereby violating 20 CSR 100-4.100(2)(A), a regulation of the Director, and did not demonstrate any justification for his failure to adequately respond within twenty days.
33. The Director also may refuse to issue Saunders an individual insurance producer license under § 375.141.1(2) because Saunders twice violated § 375.141.6, which is an insurance law:
 - a. Saunders failed to report the FINRA Sanction to the Director within 30 days of its final disposition.
 - b. Saunders failed to report the SOS Consent Order to the Director within 30 days of its final disposition.
34. The Director also may refuse to issue Saunders an individual insurance producer license under § 375.141.1(8) because Saunders demonstrated financial irresponsibility in the conduct of business in Missouri when he invested Woolfolk's money in a risky investment when he knew that her goal was sustained income in her retirement.

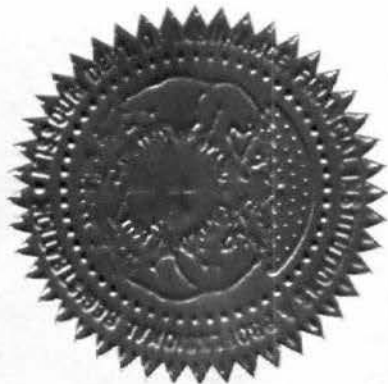
35. The Director has considered Saunders's history and all of the circumstances surrounding Saunders's 2014 Application. Issuing Saunders an individual insurance producer license would not be in the interest of the public. The Director exercises his discretion and refuses to issue an individual insurance producer license to Saunders.
36. The requested Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the individual insurance producer license application of **Dorian K. Saunders** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 4th DAY OF AUGUST, 2014.




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 5th day of August, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following addresses:

Dorian K. Saunders
806 Rockefeller Lane
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Certified No. 7009 3410 0001 9254 8254



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