



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

EDWARD MARTIN BANKS,

Applicant.

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Case No. 170719323C

ORDER REFUSING TO RENEW NON-RESIDENT INSURANCE PRODUCER LICENSE

On July 17, 2018, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse to renew the non-resident insurance producer license of Edward Martin Banks. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Edward Martin Banks ("Banks") is a Florida resident with a business and residential address of record of 3581 South West Kromrey Street, Port Saint Lucie, Florida 34953.
2. On November 5, 2014, the Director of the Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Banks a non-resident insurance producer license (License No. 8334854). Banks's insurance producer license expired on November 5, 2016.
3. On December 9, 2016, Banks submitted his electronic application for renewal of his non-resident insurance producer license ("Application") to the Department of Insurance, Financial Institutions and Professional Registration ("Department").
4. Background Question No. 2 of the Application asked the following, 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?
5. Banks answered "no" in response to Background Question No. 2 of the Application.

6. The “Attestation” section of the Application states, 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.

7. Banks accepted the “Attestation” section of his Application.

8. Contrary to Banks’s certification, his response to Background Question No. 2 was not true and complete. An investigation by the Division discovered that Banks has been involved in two administrative proceedings which had not been previously reported to the Department. Specifically:

- a. On December 9, 2014, the Wisconsin Commissioner of Insurance notified Banks that an application for a permanent individual intermediary agent’s insurance license was denied because Banks failed to promptly respond to written requests for information and failed to provide evidence of payment of child support payments. Banks did not appeal the Wisconsin Commissioner’s refusal, which became final on or around January 8, 2015. Edward Banks, Legal File No. 14-C40434 (Wis. Comm’r of Ins. December 9, 2014).
- b. On October 8, 2015, the Wisconsin Commissioner of Insurance notified Banks that an application for a permanent individual intermediary agent’s insurance license was denied because Banks failed to promptly respond to written requests for information and failed to disclose a prior administrative action on his application. Banks did not appeal the Wisconsin Commissioner’s refusal, which became final on or around November 7, 2015. Edward Banks, Legal File No. 15-C40991 (Wis. Comm’r of Ins. October 8, 2015).

9. Both denials from the Wisconsin Commissioner of Insurance notified Banks that the denial was an administrative action which may need to be reported to other states and that would need to be disclosed on all future applications.

10. Although Banks was a licensed insurance producer in Missouri from November 5, 2014, to November 5, 2016, Banks never submitted copies of the Wisconsin orders or other relevant legal documents or otherwise reported the Wisconsin administrative actions to the Director.

11. On December 19, 2016, Division Special Investigator Dennis Fitzpatrick sent an inquiry letter by first class mail to Banks at his address of record. The inquiry letter asked Banks to explain the circumstances of each administrative action taken by the State of Wisconsin. The inquiry letter cited 20 CSR 100-4.100, notified Banks that his

response was due within twenty days, and warned that failure to respond could result in disciplinary action.

12. The United States Postal Service did not return the Division's December 19, 2016 inquiry letter as undeliverable, and therefore Banks is presumed to have received it.
13. Banks did not respond to the Division's December 19, 2016 inquiry letter within 20 days, or at all, nor did he demonstrate a reasonable justification for the delay.
14. On January 30, 2017, Special Investigator Fitzpatrick sent a second inquiry letter by first class mail to Banks at his address of record. The inquiry letter was marked "second request" and requested the same information requested by the first inquiry letter. The inquiry letter again cited 20 CSR 100-4.100, notified Banks that his response was due within twenty days, and warned that failure to respond could result in disciplinary action.
15. The United States Postal Service did not return the Division's January 30, 2017 inquiry letter as undeliverable, and therefore Banks is presumed to have received it.
16. Banks did not respond to the Division's January 30, 2017 inquiry letter within 20 days, or at all, nor did he demonstrate a reasonable justification for the delay.
17. It is inferable, and hereby found as fact, that Banks failed to disclose administrative actions taken against him by the State of Wisconsin in order to misrepresent to the Director that he had never been named or involved as a party in an administrative proceeding and thereby improve the chances that the Director would approve his application for renewal of his non-resident insurance producer license.

CONCLUSIONS OF LAW

18. Section 375.141, RSMo (2016),¹ 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; [or]

¹ All references to Missouri statutes are to the Revised Statutes of Missouri (2016).

* * *

(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.

19. Wis. Stat. § 601.62(3)(a), provides the following, in part:

... Whenever an order is issued without a hearing, any person aggrieved by the order may demand a hearing within 30 days after the date on which the notice of the order was mailed. Failure to demand a hearing within the period prescribed therefor is waiver of a hearing. The demand shall be in writing and shall be served on the commissioner by delivering a copy to the commissioner or by leaving it at the commissioner's office. The commissioner shall thereupon hold a hearing not less than 10 nor more than 60 days after service of the demand.

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

21. "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).

22. Wis. Stat. § 628.02(1)(a), provides the following, in part:

... "a person is an "intermediary" if the person does or assists another in doing any of the following:

1. Solicits, negotiates or places insurance or annuities on behalf of an insurer or a person seeking insurance or annuities; or

2. Advises other persons about insurance needs and coverages.

23. Section 375.012.2(6), defines an "Insurance producer" as "a person required to be licensed pursuant to the laws of this state to sell, solicit or negotiate insurance."
24. The "individual intermediary agent's insurance license" Banks was denied in Wisconsin is equivalent to an insurance producer license under Missouri law.
25. The Director may refuse to renew Banks's non-resident insurance producer license pursuant to § 375.141.1(1) because Banks intentionally provided materially incorrect, misleading, incomplete or untrue information on his Application when he failed to disclose that he had been involved as a party in two administrative proceedings. Edward Banks, Legal File No. 14-C40434 (Wis. Comm'r of Ins. December 9, 2014); Edward Banks, Legal File No. 15-C40991 (Wis. Comm'r of Ins. October 8, 2015).
26. The Director may refuse to renew Banks's non-resident insurance producer license pursuant to § 375.141.1(2) because Banks failed to respond to the Division's inquiry letters and failed to provide reasonable justifications for the delay, thereby violating 20 CSR 100-4.100(2)(A), a regulation of the Director.
27. Each instance in which Banks violated 20 CSR 100-4.100(2)(A) constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
28. The Director may refuse to renew Banks's non-resident insurance producer license pursuant to § 375.141.1(2) because Banks violated § 375.141.6 when he failed to report two administrative actions taken against him in Wisconsin within thirty days of the final disposition of the matters.
29. Each instance in which Banks violated § 375.141.6 constitutes a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
30. The Director may refuse to renew Banks's non-resident insurance producer license pursuant to § 375.141.1(3) because Banks attempted to obtain a license through material misrepresentation or fraud when he misrepresented to the Director that he had never been named or involved as a party in an administrative proceeding when he answered "no" to Background Question No. 2 of his Application for renewal of his non-resident insurance producer license.
31. The Director may refuse to renew Banks's non-resident insurance producer license pursuant to § 375.141.1(9) because Banks has had an insurance producer license, or its equivalent, denied in another state, specifically Wisconsin. Edward Banks, Legal File No. 14-C40434 (Wis. Comm'r of Ins. December 9, 2014); Edward Banks, Legal File No. 15-C40991 (Wis. Comm'r of Ins. October 8, 2015).

32. The Director has considered Banks's history and all of the circumstances surrounding Banks's Application and exercises her discretion to refuse to renew Banks's non-resident insurance producer license.
33. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that **Edward Martin Banks's** insurance producer license renewal application is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 31st DAY OF October, 2018.



Chloria 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.

CERTIFICATE OF SERVICE

I hereby certify that on this November 2, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, to the following address:

Edward Martin Banks
South West Kromrey Street,
Port Saint Lucie, FL 34953

Tracking No. 1Z0R15W842974451103581



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