



State of Missouri

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

IN RE:)
)
 John J. Martin,) **Case No. 140226255C**
)
)
 Applicant.)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On June 3, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue John J. Martin’s insurance producer license. 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.

FACTUAL BACKGROUND

1. John J. Martin (“Martin”) is a California resident with a residential and business address of 3146 E. Kerckhoff, Fresno, California, 93702, and a mailing address of 1347 E. Dakota, Fresno, California, 93704.
2. On or about October 31, 2013, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received an electronic non-resident insurance producer license application (“Application”) from Martin.
3. In the section of the Application headed “Background Questions,” Background Question # 1 asks, in relevant part, “Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?”
4. Martin answered “No” to Background Question # 1.
5. Martin failed to disclose the following convictions on the Application:¹
 - a. On October 18, 2006, Martin pleaded guilty to misdemeanor vandalism. The Superior Court of California, County of Fresno, sentenced Martin to 180 days’ probation. *People v. John Jeremy Martin*, Sup. Ct. Ca., Case No. M06920616 MA.
 - b. On September 17, 2007, Martin pleaded nolo contendere to and was convicted of misdemeanor battery on an officer. The Superior Court of California, County of

¹ Because Martin failed to disclose his criminal history on the Application and failed to respond to inquiries from the Consumer Affairs Division, this list of convictions may not be exhaustive.

Fresno, sentenced Martin to 45 days in jail and two years' probation. *People v. John Jeremy Martin*, Sup. Ct. Ca., Case No. F07905658 MA.

6. In the section of the Application headed "Background Questions," Background Question # 2 asks, 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."
7. Martin answered "No" to Background Question # 2.
8. Martin failed to disclose his involvement in the following administrative proceeding on the Application:
 - a. On September 23, 2013, the California Insurance Commissioner adopted and officially filed a decision denying Martin's application for a life-only insurance agent and accident and health insurance agent license and issuing Martin a restricted accident and health agent and life-only agent license subject to certain terms and conditions. *In the Matter of the Application of: John Jeremy Martin*, CDI File No. LBB 6938-AP.
 - b. Martin did not file a petition for reconsideration of the decision, and the decision became effective on October 23, 2013. *Id.*
9. On December 9, 2013, the South Dakota Division of Insurance denied Martin's application for licensure as a nonresident insurance producer:
 - a. The South Dakota Division of Insurance denied Martin's application "for incompleteness, and violating another state's insurance laws, attempting to obtain a license through misrepresentation or fraud, and for having a license denied in another state."
 - b. Pursuant to South Dakota Codified Law § 58-30-168 (2001), Martin had 30 days to appeal the denial of his application for licensure. Martin did not appeal the South Dakota denial.
10. On April 1, 2014, the Louisiana Department of Insurance denied Martin's application for a producer license:
 - a. The Louisiana Department of Insurance denied Martin's application for failing to disclose his criminal background on his license application, and for violating an order of the commissioner when he failed to pay a \$500 fine imposed upon him.
 - b. Martin had 30 days to appeal the denial of his application for licensure. Martin did

not appeal the Louisiana denial.

11. On November 18, 2013, Special Investigator Karen Crutchfield ("Crutchfield") of the Consumer Affairs Division sent an inquiry letter by first-class mail to Martin's mailing address of record requesting that Martin provide information and documentation concerning his undisclosed criminal history and the California administrative action. The inquiry letter requested a response by December 9, 2013. The inquiry letter was not returned as undeliverable.
12. Martin did not respond to the November 18, 2013 inquiry letter with the requested information and did not contact the Department in any way to demonstrate a reasonable justification for a delayed response.
13. On December 11, 2013, Crutchfield sent a second inquiry letter by first-class mail to Martin's mailing address of record requesting that Martin provide information and documentation concerning his undisclosed criminal history and the California administrative action. The inquiry letter requested a response by December 31, 2013. The inquiry letter was not returned as undeliverable.
14. Martin did not respond to the December 11, 2013 inquiry letter with the requested information and did not contact the Department in any way to demonstrate a reasonable justification for a delayed response.

CONCLUSIONS OF LAW

15. Section 375.141, RSMo (Supp. 2013),² 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;

* * *

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

16. Title 20 CSR 100-4.100 Required Response to Inquiries by the Consumer Affairs Division,

² All statutory references are to the Revised Statutes of Missouri (Supp. 2013) unless otherwise noted.

provides, in part:

* * *

(2)(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. 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.

17. "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).
18. 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).
19. Martin may be refused an insurance producer license pursuant to § 375.141.1(1) because he intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application by failing to disclose on the Application at least two convictions and his involvement in the California administrative action. *People v. John Jeremy Martin*, Sup. Ct. Ca., Case No. M06920616 MA; *People v. John Jeremy Martin*, Sup. Ct. Ca., Case No. F07905658 MA; *In the Matter of the Application of: John Jeremy Martin*, CDI File No. LBB 6938-AP.
20. Martin's failures to disclose the two convictions and involvement in the California administrative action on the Application are three separate and sufficient grounds to refuse to issue Martin an insurance producer license pursuant to § 375.141.1(1).
21. Martin may be refused an insurance producer license pursuant to § 375.141.1(2) because he violated a Missouri insurance regulation, namely 20 CSR 100-4.100, when he failed to respond to two inquiries from the Consumer Affairs Division, letters dated November 18 and December 11, 2013, within twenty (20) days from the dates of mailing.
22. Each failure to respond is a separate and sufficient ground to refuse to issue Martin an insurance producer license pursuant to § 375.141.1(2).
23. Martin may be refused an insurance producer license pursuant to § 375.141.1(3) because he attempted to obtain a license through material misrepresentation or fraud by failing to disclose on the Application at least two convictions and his involvement in the California administrative action. *People v. John Jeremy Martin*, Sup. Ct. Ca., Case No. M06920616 MA; *People v. John Jeremy Martin*, Sup. Ct. Ca., Case No. F07905658 MA; *In the Matter of the Application of: John Jeremy Martin*, CDI File No. LBB 6938-AP.

- 24. Martin's failures to disclose the two convictions and involvement in the California administrative action on the Application are three separate and sufficient grounds to refuse to issue Martin an insurance producer license pursuant to § 375.141.1(3).
- 25. Martin may be refused an insurance producer license pursuant to § 375.141.1(9) because he had an insurance producer license denied in South Dakota and Louisiana.
- 26. Each denial is a separate and sufficient ground to refuse to issue Martin an insurance producer license pursuant to § 375.141.1(9).
- 27. The Director has considered Martin's history and all of the facts and circumstances surrounding the Application, and for the reasons stated in this Order exercises his discretion in refusing to issue Martin an insurance producer license.
- 28. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of **John J. Martin** is hereby **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 5TH **DAY**
OF JUNE, 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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120 RSMo. Under 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 12th day of June, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS with signature required at the following address:

John J. Martin
1347 E. Dakota Ave.
Fresno, CA 93704

Tracking No. 1Z0R15W84299290631



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