



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

JEFFREY A. PULLIAM,

Renewal Applicant.

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Case No. 140429428C

ORDER REFUSING TO RENEW AN INSURANCE PRODUCER LICENSE

On August 26, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew Jeffrey A. Pulliam's individual resident insurance producer license. 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. Jeffrey A. Pulliam ("Pulliam") is a Missouri resident with a residential, mailing, and business address of 904 NW Roanoke Drive, Blue Springs, Missouri 64015.
2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Pulliam an individual resident insurance producer license (License No. 0197075) on May 2, 2002, which was renewed most recently on May 3, 2012.
3. Physicians Mutual sent a letter to Pulliam dated February 18, 2013 that notified Pulliam that his "agreement with Physicians Mutual was terminated on 02/14/2013" and that "[e]ffective 02/14/2013 [Pulliam's] appointments with the State of KS and MO have been canceled and [Pulliam] may no longer act as a representative of Physicians Mutual and/or Physicians Life Insurance Company."
4. Physicians Mutual sent a letter to the Department dated March 13, 2013 regarding Pulliam. The letter notified the Department of "potential fraud being committed by [Pulliam]" and expressed Physician Mutual's opinion that "either the customer is involved in the fraud or [Pulliam] is using information obtained from past applications with other companies to submit the fraudulent applications to Physicians Mutual."
5. On June 4, 2013, Special Investigator Jodi Lehman with the Consumer Affairs Division ("Division") sent an inquiry letter to Pulliam requesting an explanation as to

why numerous applications for insurance, submitted by Pulliam to Physicians Mutual, contained fraudulent information. The inquiry letter also included a copy of Physician Mutual's February 18, 2013 termination letter.

6. Physicians Mutual sent a letter to Pulliam dated June 13, 2013 that notified Pulliam that he was paid more commissions than he earned while employed with Physicians Mutual and, therefore, owed Physicians Mutual \$2,497.99.

7. On June 25, 2013, the Division received a letter from Pulliam in response to the Division's inquiry letter that explained, in part, that:

"[w]e as agents go out and write hundreds of contract, each year and we trust all the information is true to the best of the customer and our abilities. How many cases do underwriting get and the (Client) tell us they don't take medicines or something to that effect. I wouldn't purposely mislead the company, or a client, but we have to take the information given. ... Again, each client signed the application with the information given."

8. On November 8, 2013, consumer C.A. completed and signed an Affidavit at the request of Special Investigator Lehman. In her Affidavit, C.A. attests, in part, as follows:
 - a. On or about December 20, 2012, I was approached by Pulliam to complete an application for myself and on behalf of my husband (B.A.);
 - b. Pulliam advised me that if I cooperated in submitting the application, I would receive payment of \$100.00 per application;
 - c. Pulliam did not provide me a copy of either of the applications but instead asked me questions from the applications and marked them after I responded, without showing me what he marked;
 - d. Pulliam asked my date of birth; [C.A. responded with her correct date of birth in 1961];¹
 - e. I was not 65 years of age on December 20, 2012, and did not turn 65 years of age within the six months following December 20, 2012;²
 - f. Pulliam asked for B.A.'s date of birth; [C.A. responded with B.A.'s correct

¹ To protect C.A.'s personal identification information, only the year is provided herein. Her application for a Medicare Supplement policy listed her date of birth as January 11, 1947.

² C.A. was only 51 on the date her application for a Medicare Supplement policy was submitted.

date of birth in 1958];³

- g. B.A. was not 65 years of age on December 20, 2012, and did not turn 65 years of age within the six months following December 20, 2012;⁴
 - h. I signed my application and B.A.'s application without reviewing the applications;
 - i. Neither I nor B.A. paid premium to Pulliam or Physicians Mutual;
 - j. I received a check in the amount of \$87.00 from Physicians Mutual as reimbursement of one policy and cashed the check at Pulliam's advice; and
 - k. After receiving a survey from the Department, Pulliam advised me not to cooperate with the Department's investigation.
9. On February 20, 2014, in response to a subpoena, Pulliam appeared before the Division at a subpoena conference and testified under oath. When questioned about C.A.'s Affidavit, Pulliam testified, in part, as follows:

Division: So at the time you submitted [C.A.'s], you had a reason to question that maybe some of the information was not correct?
Pulliam: Correct.
Division: What information was that?
Pulliam: The birth date and of course not even thinking to look at that I wrote 5'9, 176 pounds. That's absurd.
Division: Why did you go ahead and send it in when you had a reason to think maybe the information was incorrect?
Pulliam: Bad judgment.

* * *

Division: So I guess I'm just asking why would you even have [C.A.] fill [out an] application?
Pulliam: Just for the bonus part probably. I mean that's the only reason why I would have done it.

* * *

³ To protect B.A.'s personal identification information, only the year is provided herein. His application for a Medicare Supplement policy listed his date of birth as August 15, 1947.

⁴ B.A. was only 54 on the date his application for a Medicare Supplement policy was submitted.

Division: I'm asking if you changed those birth dates to try to slip those applications through for the bonus and the commission?

Pulliam: No. I know on [C.A.'s] I did. The rest of them I don't think there was a bonus going on back then when I wrote those.

10. The Department received Pulliam's completed Uniform Application for Individual Producer License Renewal/Registration ("Renewal Application") on June 2, 2014.

CONCLUSIONS OF LAW

11. Section 375.141 RSMo (Supp. 2013)⁵ 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:

* * *

- (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or another insurance commissioner in another state;

* * *

- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

* * *

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

12. Section 375.144 RSMo states, in relevant part:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

* * *

- (2) As to any material fact, make or use any misrepresentation, concealment, or suppression[.]

⁵ All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

13. Section 375.934 RSMo states, in relevant part:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

- (1) It is committed in conscious disregard of sections 375.930 to 375.948 or any rules promulgated under sections 375.930 to 375.948; or
- (2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

14. Section 375.936 RSMo states, in relevant part:

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance:

* * *

(9)(a) "Rebates": Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity, accident and health insurance or other insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering or to give, sell, or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract[.]

15. 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).
16. Renewal of Pulliam's individual resident insurance producer license may be refused pursuant to § 375.141.1(2) because he violated a Missouri insurance law, namely § 375.144(2), when Pulliam, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, made or used any misrepresentation, concealment, or suppression as to any material fact when he listed incorrect dates of birth and incorrect ages on applications for Medicare Supplement policies so that the applicants would appear to be eligible for the insurance product. Each instance in which Pulliam misrepresented, concealed, or suppressed any material fact in

connection with the offer, sale, solicitation, or negotiation of insurance is a separate violation of § 375.144(2).

17. Renewal of Pulliam's individual resident insurance producer license may be refused pursuant to § 375.141.1(2) because he violated a Missouri insurance law, namely § 375.934, by engaging in an unfair trade practice under § 375.936(9)(a), when he paid or offered to pay, as inducement to such insurance, any valuable consideration or inducement not specified in the contract when he offered to pay or paid C.A. \$100.00 per application if she cooperated in submitting applications for Medicare Supplement policies for herself and on behalf of her husband. Pulliam committed said acts in conscious disregard of the law.
18. Each instance in which Pulliam violated an insurance law is a separate and sufficient cause to refuse to renew Pulliam's individual resident insurance producer license pursuant to § 375.141.1(2).
19. Renewal of Pulliam's individual resident insurance producer license may be refused pursuant to § 375.141.1(5) because Pulliam intentionally misrepresented the terms of actual insurance contracts or applications for insurance when he submitted applications for Medicare Supplement policies to Physicians Mutual that contained incorrect dates of birth and incorrect ages so that the applicants would appear to be eligible for the insurance product.
20. Each instance in which Pulliam intentionally misrepresented the terms of an actual insurance contract or application for insurance is a separate and sufficient cause to refuse to renew Pulliam's individual resident insurance producer license pursuant to § 375.141.1(5).
21. Renewal of Pulliam's individual resident insurance producer license may be refused pursuant to § 375.141.1(8) because Pulliam used fraudulent or dishonest practices or demonstrated untrustworthiness in the conduct of business when he submitted applications for insurance that contained incorrect dates of birth and incorrect ages.
22. Each instance in which Pulliam used fraudulent or dishonest practices or demonstrated untrustworthiness in the conduct of business is a separate and sufficient cause to refuse to renew Pulliam's individual resident insurance producer license pursuant to § 375.141.1(8).
23. The instances enumerated above are grounds upon which the Director may refuse to renew Pulliam's individual resident insurance producer license. Renewing Pulliam's individual resident insurance producer license is not in the public's interest.

24. The Director has considered the circumstances surrounding Pulliam's Renewal Application and exercises his discretion to refuse to renew Pulliam's individual resident insurance producer license for the reasons enumerated in this Petition.
25. This Order is in the public interest.


ORDER

IT IS THEREFORE ORDERED that the individual resident insurance producer license renewal application of **Jeffrey A. Pulliam** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th 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 29th day of August, 2014 a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following address:

Jeffrey A. Pulliam
904 NW Roanoke Drive
Blue Springs, MO 64015

Tracking No. 1Z0R15W84299604711


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