

## State of Missouri

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

IN THE MATTER OF:

Heather M. Hill,

Renewal Applicant.

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Case No. 100512459C

### REFUSAL TO RENEW INSURANCE PRODUCER LICENSE

On September 16, 2010, Mary S. Erickson, Senior Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to renew the non-resident insurance producer license of Heather M. Hill. 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 summary order:

### FINDINGS OF FACT

1. Heather M. Hill ("Hill") is an individual residing in the state of Illinois.
2. On or about July 7, 2008, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hill's letter dated July 3, 2008 requesting the late renewal of her non-resident Missouri producer license. In the regarding line, Hill wrote: "Late Renewal of Non-Resident Producer License."
3. In her July 3, 2008 letter, Hill listed 25947 W. Myrtle Lane, Ingleside, Illinois 60041 as her residential and mailing address.
4. Westlaw People Finder lists 24219 N. Riverside Dr., Cary, Illinois 60013-9612 as Hill's current address.
5. The Department originally issued Hill a non-resident insurance producer license on September 27, 2001, No. 0153707. Such license remained active until September 27, 2007 when it expired without renewal.
6. The Department also issued Hill a non-resident insurance producer license for surplus lines on September 21, 2004. Such license remained active until September 24, 2007 when it expired without renewal. Hill did not request renewal of her surplus lines producer license in her July 3, 2008 letter to the Department.

7. On July 25, 2008, Special Investigator Dana Whaley, Investigations Section, Consumer Affairs Division, sent Hill a letter by U.S. Mail, postage-prepaid, to the address Hill provided in her July 3, 2008 letter. Investigator Whaley requested an explanation regarding the results of a surplus lines audit of Hill for the following: (1) a delinquent surplus lines tax report; (2) why Hill conducted business by placing surplus lines risks without being properly licensed to do so; and (3) why only six of 41 Appendix 1 filings were timely filed.
8. Hill did not respond to the July 25, 2008 letter of Investigator Whaley, nor was the letter returned to the Department by the U.S. Mail.
9. On August 27, 2008, Investigator Whaley sent another letter to Hill by U.S. Mail, postage-prepaid, to the address Hill provided in her July 3, 2008 letter. Investigator Whaley requested that Hill respond immediately to the Department's July 25, 2008 letter.
10. Hill did not respond to the August 27, 2008 letter of Investigator Whaley, nor was the letter returned to the Department by the U.S. Mail.
11. The Taxation Section of the Department conducted an audit in 2007 of Hill's surplus lines business regulated by the Department and found five violations of Chapter 384, Surplus Lines Insurance:
  - a. Violation of § 384.031 RSMo 2000 for failure to timely file 35 Appendix 1 filings after placing surplus lines insurance.
  - b. Violation of § 384.043 RSMo (2000 and Supp. 2004) for placing surplus lines business with a nonadmitted insurer prior to being licensed by the Department in surplus lines.
  - c. Violation of § 384.048 RSMo 2000 for failure to keep and produce records to the Department.
  - d. Violation of § 384.057 RSMo 2000 for failure to timely file annual tax reports.
  - e. Violation of § 384.059 RSMo 2000 for failure to pay premium tax imposed on surplus lines.
12. On April 7, 2009, the Insurance Commissioner for the State of Oklahoma issued a "Conditional Administrative Order and Notice of Right to be Heard." *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Heather M. Hill*, Case No. 09-0477-DIS. In the Order, which became final when Hill did not request a hearing, the Oklahoma Insurance Commissioner censured Hill and fined her \$500.00 for multiple violations of Oklahoma's insurance laws. *Id.*
13. On October 29, 2009, the State Corporation Commission of Virginia issued its Order revoking Hill's license for violations of Virginia's insurance laws, including failing to report within thirty days the administrative action taken against Hill by Oklahoma. *Commonwealth of Virginia, ex rel. State Corporation Commission v. Heather M. Hill*, Case No. INS-2009-00231.

14. Hill failed to report to the Director the administrative actions taken against her by Oklahoma and Virginia within 30 days of the final disposition of the matters.

### **CONCLUSIONS OF LAW**

15. Section 375.141 RSMo (Supp. 2009)<sup>1</sup> 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 of another insurance commissioner in any other state;

\* \* \*

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

16. 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(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. 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.

(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.

17. Section 375.141.6 states:

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.

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<sup>1</sup> All statutory references are to RSMo (Supp. 2009) unless otherwise indicated.

18. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).
19. The principal purpose of § 375.141 RSMo is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).
20. Hill failed to respond to two Division of Consumer Affairs' inquiries regarding the violations found in the audit of Hill's surplus lines business by the Department's Taxation Section. These failures to respond constitute cause to refuse to renew Hill's insurance producer license under § 375.141.1(2) for violating 20 CSR 100-4.100.
21. As a surplus lines licensee, Hill was required to comply with Missouri's surplus lines insurance laws in Chapter 384 RSMo. The Taxation Section of the Department audited Hill's surplus lines business in 2007 and found violations of §§ 384.031, 384.048, 384.057, and 384.059 RSMo 2000 and § 384.043 RSMo (2000 and Supp. 2004). Violations of §§ 384.031, 384.043, 384.048, 384.057, and 384.059 are cause to refuse renewal of Hill's insurance producer license under § 375.141.1(2).
22. Renewal of Hill's insurance producer license may be refused based upon § 375.141.1(9), because she has had an insurance producer license revoked in Virginia on October 29, 2009.
23. Hill failed to report to the Director administrative action taken against her by Virginia and Oklahoma within 30 days of the final disposition of those matters, in violation of § 375.141.6, which is grounds for refusal of renewal of Hill's insurance producer license under § 375.141.1(2).
24. Hill failed to respond to inquiries from the Consumer Affairs Division and failed to report to the Director administrative action taken against her by two other states. In the conduct of surplus lines business in Missouri, Hill violated at least five Missouri Surplus Lines Insurance laws, Chapter 384 RSMo. Hill's insurance producer license, or its equivalent, was revoked in another state. Granting renewal of Hill's Missouri non-resident insurance producer license would not be in the interest of the public. For all of the reasons given in this Petition, the Director should consider Hill's history and all of the circumstances surrounding Hill's renewal request and exercise his discretion by summarily refusing to renew Hill's non-resident insurance producer license.
25. The requested order is in the public interest.
26. In applying his discretion, the Director has considered the history of Hill and all of the circumstances surrounding Hill's request for renewal. Hill failed to respond to inquiries from the Consumer Affairs Division and failed to report to the Director administrative action taken against her by two other states. In the conduct of surplus lines business in Missouri, Hill violated at least five Missouri Surplus Lines Insurance laws, Chapter 384 RSMo. Hill's insurance producer license, or its equivalent, was revoked in another state.

Renewal of Hill's non-resident insurance producer license would not be in the public interest, and, accordingly, the Director exercises his discretion by summarily refusing to renew Hill's non-resident insurance producer license.

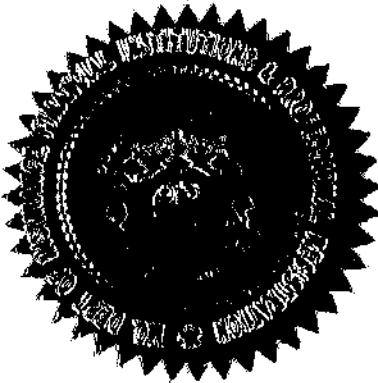
27. This Order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that renewal of the non-resident insurance producer license of Heather M. Hill is hereby summarily **REFUSED**.

**SO ORDERED.**

WITNESS MY HAND THIS 20<sup>th</sup> DAY OF SEPTEMBER, 2010.



  
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 13<sup>th</sup> day of October, 2010, a copy of the foregoing Notice and Order was served upon Heather M. Hill by priority mail No. 0307 3330 0000 7083 0964 at:

Heather M. Hill  
25947 W. Myrtle Lane  
Ingleside, IL 60041

I hereby certify that on this 13<sup>th</sup> day of October, 2010, a copy of the foregoing Notice and Order was served upon Heather M. Hill by certified mail No. 7007 0710 0002 2055 2794 at:

Heather M. Hill  
24219 N. Riverside Dr.  
Cary, IL 60013-9612

Kathryn Randolph