



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN THE MATTER OF:

Heather Pyle,

Applicant.

Serve at:

Heather Pyle
3349 State Route 75
Apt. 48B
Huntington, WV 25704

Case No. 090821647C

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On August 25, 2010, Andy Heitmann, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Heather Pyle. 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 Pyle ("Respondent Pyle") is an individual residing in West Virginia.
2. On or about November 10, 2008, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received Respondent Pyle's electronic Non-Resident Individual Producer License Application ("Application").
3. The Application proved to be incomplete, in that it lacked required documentation concerning Pyle's criminal record. The Division of Consumer Affairs (the "Division"), through its Investigations section, gave Respondent Pyle numerous opportunities to complete the Application over the course of most of a year, but Respondent Pyle never provided the required information. Ultimately, the Director issued a subpoena duces tecum to Respondent Pyle, but Respondent Pyle failed to appear or produce documents as ordered.
4. In the Application, Respondent Pyle provided her mailing address as 801 Madison Ave., Ste. 206, Huntington, West Virginia, 25704. Respondent Pyle listed the same address as her business and mailing addresses.

5. In the section of the Application headed "Background Questions," Background Question # 1 asks "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"
6. Respondent Pyle answered Background Question # 1 with a "Yes."
7. When an applicant indicates a "Yes" answer to Background Question # 1, the applicant is required to supply a statement of explanation and also a certified copy of the charging document and a certified copy of the official document demonstrating the resolution of the charges or any final judgment. The electronic application advises applicants of these requirements when they answer Background Question # 1 with a "Yes."
8. Respondent Pyle provided only an undated letter with her signature and a letter dated August 13, 2008, from a dentist:
 - a. Respondent Pyle's letter stated that in July 2008 police pulled her over in Georgia and searched her car, during which search the police found an aspirin bottle containing prescription medication. Respondent Pyle's letter indicated that the charges stemming from that incident had not then been resolved.
 - b. The letter from a dentist advised that he had prescribed Lorcet to Respondent Pyle in February 2008, several months before Respondent Pyle was pulled over, for "post appointment pain."
 - c. Respondent Pyle's letter also stated that she had pled guilty to a "DUI" charge in January 2001 in Proctorville, Ohio.
9. Respondent Pyle did not provide certified copies of charging documents in either case, nor did she provide certified copies of documents showing the resolution of her Ohio DUI case.
10. The Division afforded Respondent Pyle numerous opportunities to provide the certified documents over most of the following year, but Respondent Pyle failed to provide them.
11. On November 25, 2008, Division investigator Carrie Couch ("Couch") sent Respondent Pyle by first class mail to Respondent Pyle's address of record a letter in which Couch requested certified copies of the charging document, plea agreement and judgment and sentence in Respondent Pyle's Ohio DUI case and a certified copy of the charging document in the Lorcet incident from July 2008 (the "Certified Documents").
12. Respondent Pyle did not respond to Couch's November 25, 2008 letter.
13. On December 17, 2008, Couch sent a second letter by first class mail to Respondent Pyle at her address of record, again requesting the Certified Documents.
14. Respondent Pyle did not respond to Couch's December 17, 2008 letter.

15. On January 15, 2009, Couch contacted Respondent Pyle by telephone, whereupon Respondent Pyle provided a new mailing address of 3349 State Route 75, Apartment 48B, Huntington, West Virginia, 25704.
16. On January 16, 2008, Couch sent a third letter by first class mail to Respondent Pyle, this one to the new mailing address, again requesting the Certified Documents.
17. Respondent Pyle failed to respond to Couch's January 16, 2009 letter.
18. On February 11, 2009, Couch sent a fourth letter by first class mail to Respondent Pyle, again to the new mailing address, and again requesting the Certified Documents.
19. Respondent Pyle failed to respond to Couch's February 11, 2009 letter.
20. On March 11, 2009, Couch sent a fifth letter by first class mail to Respondent Pyle, again to the new mailing address, and again requesting the Certified Documents.
21. Respondent Pyle failed to respond to Couch's March 11, 2009 letter.
22. On April 8, 2009, Couch sent a subpoena duces tecum by certified mail to Respondent Pyle, at her new address, requiring by the Director's order that Respondent Pyle appear at the offices of the Department and testify under oath concerning her criminal history and to produce the Certified Documents.
23. The April 8, 2009 certified letter was returned to the Department as unclaimed.
24. On May 6, 2009, Couch sent a new subpoena duces tecum by first class mail to Respondent Pyle, at her new address, requiring by the Director's order that Respondent Pyle appear and testify on June 2, 2009, and requiring that she produce the Certified Documents.
25. The May 6, 2009 letter was not returned as undeliverable.
26. On June 2, 2009, Respondent Pyle failed to appear as ordered. Prior to her failure to appear, Respondent Pyle did not contact the Department to request a rescheduled date or any other accommodation.
27. To date, Respondent Pyle has never supplied the Certified Documents.
28. Without the Certified Documents, the Director cannot determine whether Respondent Pyle's criminal history constitutes any ground for refusal to issue her a Missouri insurance producer license.
29. With regard to all of the Division's inquiries coming after Respondent Pyle provided a new mailing address, Respondent Pyle has offered no justification for her failures to respond to the Division's inquiries.

CONCLUSIONS OF LAW

30. Section 374.210, RSMo (Supp. 2009), provides, in part:

2 . . . The director may also suspend, revoke or refuse any license . . . issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

31. Section 375.141, RSMo (Supp. 2009), 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[.]

32. 20 CSR 100-4.100 provides, in 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.

33. 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).

34. 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).

35. Respondent Pyle failed three times, after providing Couch with a new mailing address, to respond as required by 20 CSR 100-4.100 to Division inquiries regarding her criminal history. Each of these failures is a violation of 20 CSR 100-4.100 and constitutes cause under § 375.141.1(2), RSMo (Supp. 2009) for refusal to issue Respondent Pyle a Missouri insurance producer license.

36. Respondent Pyle's failure to appear and testify under oath on June 2, 2009, as ordered by the Director's subpoena and her failure to produce the Certified Documents as ordered by the Director's subpoena are violations of orders of the Director and grounds under § 375.141.1(2), RSMo (Supp. 2009), for the Director's refusal to issue Respondent Pyle a Missouri insurance producer license.

37. Respondent Pyle's failure to appear and testify under oath is a failure to obey the Director's subpoena and a ground under § 374.210.2, RSMo (Supp. 2009), for the Director's refusal to issue Respondent Pyle a Missouri insurance producer license.

38. Respondent Pyle intentionally provided materially incomplete information in her license application, a ground under § 375.141.1(1), RSMo (Supp. 2009), for the Director's refusal to issue Respondent Pyle a Missouri insurance producer license. Respondent Pyle failed to provide the Certified Documents necessary to the Director's consideration of her Application, even after being afforded numerous opportunities to provide them.

39. The Director has considered Respondent Pyle's history and all of the circumstances surrounding her Application. Respondent Pyle has failed repeatedly to provide requested and required information that is necessary to the determination of whether to issue Respondent Pyle a Missouri insurance producer license. Respondent Pyle failed to obey a subpoena duces tecum, an order of the Director. Respondent Pyle's failures to cooperate with this Department in the licensure process and her failure to obey an order of the Director provoke serious doubt about her willingness to conform to this state's insurance laws and regulations. For these reasons, the Director exercises his discretion in refusing to issue Respondent Pyle a Missouri insurance producer license.

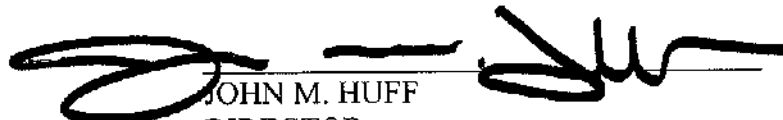
40. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Heather Pyle is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 30TH DAY OF AUGUST, 2010.


JOHN M. HUFF
DIRECTOR

NOTICE

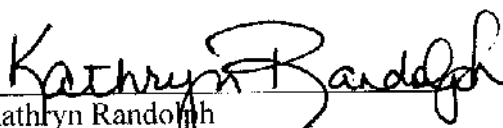
TO: Applicant and any unnamed persons aggrieved by this Order:

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.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 2010, a copy of the foregoing notice and order was served upon Heather Pyle by certified mail and by priority mail to:

Heather Pyle
3349 State Route 75
Apt. 48B
Huntington, WV 25704


Kathryn Randolph
Paralegal