



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:)
)
) Case No. 110426486C
Carrie A. Guymon,) Tracking No. 122822
)
)
Applicant.)
)
)
Serve at:)
)
4020 S 1515 W, Apt. 5D)
Salt Lake City, UT 84123)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On December 22, 2011, 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 Carrie A. Guymon. 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. Carrie A. Guymon ("Guymon") is an individual residing in Utah, whose mailing address of record is 4020 S 1515 W, Apt. 5D, Salt Lake City, Utah 84123.
2. On September 15, 2010, the Department of Insurance, Financial Institutions and Professional Registration (the "Department") received a Uniform Application for Individual Non-Resident Insurance Producer License (the "Application") from Guymon.
3. In the section of the Application headed "Background Questions," Background Question # 1 asks "Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?"
4. Guymon answered "No" to Background Question # 1.

5. In the section of the Application headed "Background Questions," Background Question # 2 asks "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"
6. Guymon answered "No" to Background Question # 2.
7. Contrary to Guymon's answer to Background Question # 2, Guymon's Utah resident insurance producer license was placed on probation in March of 2010 because the Utah Insurance Commissioner found, after a hearing, that Guymon had demonstrated a lack of fitness and trustworthiness.
8. Guymon's Utah license application had initially been denied, via a "letter of denial." After a hearing, that letter of denial was modified and Guymon was granted a license subject to probationary terms and conditions.
9. According to the Utah Insurance Commissioner's Order on Hearing (the "Order on Hearing"), Guymon personally appeared and testified under oath at the hearing.
10. On September 23, 2010, Consumer Affairs Division Investigator Karen Crutchfield mailed a letter by first class mail, with sufficient postage attached, to the mailing address listed on Guymon's Application requesting an explanation for her "No" answer to Background Question # 2 and any documents supporting her explanation. Guymon's reply was due on or before October 14, 2010.
11. On October 15, 2010, Investigator Crutchfield sent a second letter to Guymon's mailing address by certified mail requesting the same information as in the September 23, 2010 letter.
12. Also on October 15, 2010, the Department's Licensing Section received a response from Guymon. In her response, Guymon stated that she "submitted a non-resident ins[urance] license, with question #2 of the background info[rmation] marked incorrectly." Guymon included in her response:
 - a. A signed letter stating that in 2004 she committed the act of theft by going into an Albertson's store and taking a roll of cash. Guymon goes on to state that she "paid some restitution... and got a [\$]500.00 fine." According to the letter the balanced owed went to "collection[s]."
 - b. An incomplete copy of the Order on Hearing. The copy was not certified, referenced the crime of "horse stealing," and appeared to be missing pages 4, 5, 7 and 8.

13. On October 19, 2010, Investigator Crutchfield emailed Guymon at the email address listed on her Application. Investigator Crutchfield requested further clarification regarding the documents submitted by Guymon and asked for an explanation regarding Guymon's failure to disclose her conviction for theft to the Department. Guymon's reply was due on or before November 9, 2010.
14. On November 9, 2010, John Guymon, Guymon's husband, called and asked for a one-week extension for their reply. Investigator Crutchfield verbally granted this extension.
15. On November 17, 2010, John Guymon asked for another extension.
16. On November 22, 2010, Investigator Crutchfield received a response from Guymon. Guymon provided a complete copy of the Utah Order, which stated that "[Guymon] plead guilty or no contest in the 2001 to 2005 timeframe to 5 misdemeanors offenses ranging from class 'C' child abuse to no proof of insurance."
17. Additionally, Guymon provided information showing that she notified her employer of her conviction for theft. On the "Licensing & Appointment Form" submitted to her employer Guymon answered yes to the question "Have you ever been convicted or pled guilty or nolo contendere (no contest) ... for any offense other than a minor traffic violation?" Guymon further stated on the form that "[i]n 2002, I was in a store and because of a homeless situation with 2 children I had taken money that someone had left on the counter and I plead guilty, and paid around \$400 back to the store with no time served and no probation."
18. On November 23, 2010, Investigator Crutchfield sent a letter to Guymon by first class mail, with sufficient postage attached, at the mailing address listed on Guymon's Application. The letter requested an explanation of the five misdemeanors mentioned in the Utah Order, and for copies of the court actions regarding those charges.
19. The November 23, 2010 letter was not returned as undeliverable. Guymon did not respond to the letter within 20 days and did not provide reasonable justification for her failure to respond to the letter within 20 days.
20. On December 16, 2010, Investigator Crutchfield emailed Guymon at the email address listed on the Application. Investigator Crutchfield attached the November 23, 2010 letter and again asked Guymon to respond to the inquiries contained in that letter.

21. On January 7, 2011, Guymon's husband asked for an extension, which was verbally granted by Investigator Crutchfield.
22. On January 18, 2011, Investigator Crutchfield received Guymon's reply to the November 23, 2010 letter. Guymon provided uncertified docket sheets, apparently printed off from the Utah State Courts website, showing that:
 - a. On September 4, 2001, Guymon pleaded no contest to "Child Abuse," a class C misdemeanor and a violation of Utah Code 76-5-109(3)(C), and had a charge of "Possession of Drug Paraphernalia" dismissed.
 - b. On August 5, 2004, Guymon pleaded guilty to one charge of "Theft," a class A misdemeanor amended to class B misdemeanor and a violation of Utah Code 76-6-404.
 - c. Guymon also pleaded guilty to several other misdemeanors involving failure to properly register and insure her vehicle, and failure to license animals and keep them leashed.
23. On January 25, 2011, Investigator Crutchfield sent a letter to Guymon by first class mail, with sufficient postage attached, at the address given in Guymon's Application, asking for certified copies of court documents showing the charges and the resolutions of Guymon's misdemeanors. Additionally, the letter requested an explanation from Guymon for her failure to report these charges to her employer in her "Licensing & Appointment Form," as well as more information regarding Guymon's theft charge.
24. The January 25, 2011 letter was not returned as undeliverable. Guymon did not respond to the letter within 20 days and did not provide reasonable justification for her failure to respond to the letter within 20 days.
25. Guymon responded in an email on February 26, 2011. Guymon's response offered explanations regarding the questions asked in Investigator Crutchfield's January 25, 2011 letter and included certified copies of docket sheets from the misdemeanor cases.
26. On February 28, 2011, Investigator Crutchfield sent a letter to Guymon by first class mail, with sufficient postage attached, at the address given in Guymon's Application, asking for proof that Guymon contacted State Debt Collection as ordered in the Utah Order on Hearing. Investigator Crutchfield also requested explanation of the "possession of drug paraphernalia" charge against Guymon that had been dropped.
27. The February 28, 2011 letter was not returned as undeliverable. Guymon did

not respond to the letter within 20 days and did not provide reasonable justification for her failure to respond to the letter within 20 days.

28. On April 6, 2011, Investigator Crutchfield received Guymon's response to the February 28, 2011 letter. Guymon stated that she had set up a payment plan for \$15.00/month with State Debt Collection, but she did not provide documentation of such a plan.
29. Guymon also provided an explanation for the drug paraphernalia charge and further disclosed that on August 24, 2010, she pleaded no contest to a charge of "lewdness – first or second offense," a class B misdemeanor and a violation of Utah Code 76-9-702(2)(A), and provided a certified copy of the docket sheet for that charge.

CONCLUSIONS OF LAW

30. Section 375.141.1, RSMo Supp. 2011,¹ provides, in part:

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;

* * *

(6) Having been convicted of a felony or crime involving moral turpitude[.]

31. 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 can demonstrate that there is reasonable justification for that delay.

32. The principal purpose of § 375.141, RSMo, is not to punish licensees or

¹ All statutory references are to the Revised Statutes of Missouri, 2011 Supplement, unless otherwise noted.

applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

33. A crime involving "moral turpitude" is a crime involving "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything 'done contrary to justice, honesty, modesty, and good morals'." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985).
34. Cause exists to refuse Guymon's Non-Resident Insurance Producer License Application under § 375.141.1(1) because, instead of disclosing her criminal record of misdemeanor convictions, Guymon answered Background Question # 1 "No," and thereby intentionally provided materially incorrect, misleading, incomplete or untrue information on her Application.
35. Cause exists to refuse Guymon's Non-Resident Insurance Producer License Application under § 375.141.1(1) because, instead of disclosing the administrative action taken against her Utah insurance license, Guymon answered Background Question # 2 "No," and thereby intentionally provided materially incorrect, misleading, incomplete or untrue information on her Application.
36. Cause exists to refuse Guymon's Application under § 375.141.1(3) because by failing to disclose the misdemeanors to which she pleaded guilty or no contest, excluding the misdemeanors for traffic violations, Guymon attempted to obtain a license through material misrepresentation or fraud.
37. Cause exists to refuse Guymon's Application under § 375.141.1(3) because by failing to disclose the administrative action taken against her Utah insurance license, Guymon attempted to obtain a license through material misrepresentation or fraud.
38. Cause exists to refuse Guymon's Application under § 375.141.1(2) because by failing to adequately respond within 20 days to inquiries from the Consumer Affairs Division dated November 23, 2010, January 25, 2011, and February 28, 2011, Guymon violated 20 CSR 100-4.100(2)(A), a Missouri insurance regulation.
39. Cause exists to refuse Guymon's Application under § 375.141.1(6) because Guymon pleaded guilty to the crime of theft, which is a crime involving moral turpitude. *See Frick*, 694 S.W.2d at 479 ("Theft has been held to involve moral turpitude.") (internal citation omitted); *see also Trice v. Dir. of Insurance*, 10-1006 DI (Mo. Admin. Hearing Comm'n Sep. 2, 2010).

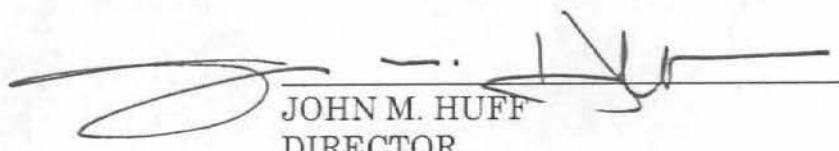
40. The Director has considered Guymon's application, history and any and all of the circumstances surrounding Guymon's Application and exercises his discretion in summarily refusing to grant Guymon's Non-Resident Insurance Producer License.
41. Granting Guymon a non-resident insurance producer license would not be in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Carrie A. Guymon is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 28th DAY OF DECEMBER, 2011.



JOHN M. HUFF
DIRECTOR

NOTICE

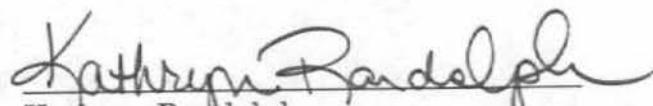
TO: Applicant and any unnamed persons aggrieved by this Order:

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 6th day of January, 2012, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by U.S. regular mail and certified mail No. 7008 2810 0000 2014 8878.

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