



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

CARLIS BIRGE,

Applicant.

)
)
)
)
)

Case No. 130516320C

ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On July 18, 2013, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Carlis Birge. 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. Carlis Birge, a.k.a., Corlis Birge, a.k.a., Carlis Bass ("Birge") is a Missouri resident with a residential address of 1018 Trifecta Drive, Florissant, Missouri 63034.
2. On or about October 30, 2012, Birge submitted her electronic Application for a resident insurance producer license ("Application") to the Department of Insurance, Financial Institutions and Professional Registration ("Department"). Birge provided attachments as well, which the Department received on November 9, 2012.
3. The "Attestation" section of the Application, states, in relevant part:
 1. I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
4. Birge accepted the "Attestation" section.
5. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

6. Birge answered "Yes" in response to Background Question No. 1.
7. Birge submitted a written statement with her Application, explaining that, in 1997, she was "convicted of felony drug conspiracy" and was sentenced to "22 months in a Federal Prison Camp in Pekin, IL," but was ultimately released and placed on probation.
8. In this statement, Birge also admitted that she had violated her federal probation by associating with known felons, and by possessing a controlled substance. Birge indicated that for this probation violation, she was sentenced to "10 month[s] in a Federal Prison Camp in Greenville, IL." Birge indicated that "[s]ince that time I have not had any other convictions."
9. Birge also submitted a letter from Tracy A. Leverenz, Senior U.S. Probation Officer for the United States District Court, Eastern District of Missouri, with her Application, indicating that "Corlis" Birge had not been under Federal supervision since 2003.
10. Birge also submitted a copy of a Judgment in case number 4:00CR259 JCH, from the United States District Court for the Eastern District of Missouri, showing that Birge had admitted to violating various conditions of her probation, as follows:
 - a. The defendant shall not commit another federal, state, or local crime.
 - b. The defendant failed to refrain from any unlawful use of a controlled substance.
 - c. The defendant failed to obtain the permission of the court or probation officer before leaving the judicial district.
 - d. Defendant failed to report to the probation officer and failed to submit a truthful and complete written report within the first five days of each month.
 - e. The defendant failed to truthfully answer all inquiries by the probation officer and follow the instructions of the probation officer.
 - f. Defendant failed to notify the probation officer within 72 hours of being arrested or questioned by law enforcement.
 - g. Defendant failed to participate, as instructed, in a substance abuse evaluation and treatment program.
 - h. Defendant failed to participate in a mental health program as instructed by the U.S. Probation Office.

United States v. Corlis Birge, No. 4:00CR259 JCH (E.D. Mo. 2003).

11. Finally, Birge submitted a document entitled, "Background Report," that appears to be from 2012, which shows some criminal history reporting.
12. After reviewing Birge's Application and attachments, Karen Crutchfield, Special Investigator with the Division, sent a letter to Birge's residential address by first class mail dated November 27, 2012. This letter requested additional documentation and information:
 - a. Details about Birge's apparent name changes, as the attachments that she submitted appeared to refer to her as both "Corlis Birge" and "Carlis Bass."
 - b. Additional information regarding the drug conspiracy that she was convicted of in 1997. In her written statement attached to her Application, Birge seemed to attribute her federal conviction, at least in part, to her "failure to cooperate with Drug Enforcement Agency as to the illegal drug activities of my brothers." Ms. Crutchfield requested that Birge also provide details regarding her probation, the conditions of her probation, how she violated probation, and what she has been doing since the time of her release from probation.
 - c. Exemplified documents in case number 4:00CR259 JCH, the federal probation violation case, including the Sentence and Judgment, Imprisonment document, and Release of Probation document, and exemplified documents in case number 3:1996-CR 30102, the underlying federal drug conspiracy case, including the Complaint, Sentence, Judgment, Indictment or Information, and the Order of Probation.
 - d. A certified copy of case number 03CF0147901, including the Information or Indictment, the Sentence and Judgment and the Order of Probation. Ms. Crutchfield had noticed what appeared to be either a new case or another probation violation bearing this case number on the "Background Report" that Birge provided.
13. In this November 27, 2012, letter to Birge, Ms. Crutchfield gave Birge until December 24, 2012, to respond.
14. The United States Postal Service did not return the Division's November 27, 2012, letter to the Division as undeliverable.
15. Birge failed to provide a written response to the Division's November 27, 2012, letter by December 24, 2012. Further, Birge did not request any additional time to respond to Ms. Crutchfield's inquiries. Birge failed to demonstrate a reasonable

justification for any delay.

16. Ms. Crutchfield sent another letter by first class and certified mail to Birge's residential address on December 27, 2012, requesting the same information and documentation, and explaining the same response deadline, set forth in 20 CSR 100-4.100(2)(A), as contained in the November 27, 2012, letter. This letter was also sent as an attachment to an e-mail that Ms. Crutchfield sent to Birge on December 27, 2012.
17. On January 7, 2013, the Division received a written response from Birge to the November 27, 2012 letter; this letter was dated, by Birge, December 18, 2012. In this letter, Birge explained that she changed her first name from "Corlis" to "Carlis" as she believed that it was more feminine. Birge explained that "Bass" was her married name, but that she was now divorced.
18. Regarding her federal probation, Birge indicated that she was supervised for almost four years. She stated that she did not get along with her probation officer as the officer "wanted too much control," so Birge "rebelled and refused to allow her to dictate my life when I was doing nothing to cause her to harass me to that degree."
19. Along with this response, Birge enclosed her resume which showed her work history since her incarceration.
20. As to the requested documentation, Birge indicated that it was "not at [her] disposal," but she provided her federal probation officer's name (Tracy Leverenz) should the Division require any additional information.
21. On January 28, 2013, Ms. Crutchfield responded to Birge's correspondence by e-mail. Again, Ms. Crutchfield inquired regarding the extent and nature of Birge's involvement in the drug conspiracy and with controlled substances at that time (in the late 1990's). Ms. Crutchfield also wanted to know more about how Birge's life had changed since that time. Ms. Crutchfield gave Birge a February 19, 2013 deadline by which to respond.
22. On February 20, 2013, Ms. Crutchfield sent another letter to Birge's residential address by first class and certified mail. This letter contained the same questions that were contained in the January 28, 2013, e-mail. In the letter, Ms. Crutchfield also noted that under 20 CSR 100-4.100(2)(A), Birge's response to the Division was due on or before March 12, 2013, and that a failure to timely respond could be a ground for refusal of her license.
23. The certified mail return receipt returned to the Department appears to bear the signature of Carlis Birge. The United States Postal Service did not return the first class letter as undeliverable.

24. Birge failed to provide a written response to the Division's February 20, 2013, letter by March 12, 2013, and failed to demonstrate a reasonable justification for the delay. To date, Birge still has not responded to the Division's February 20, 2013, letter.
25. On March 26, 2013, the Director issued a subpoena duces tecum ordering Birge's appearance on April 16, 2013. The Director sent this subpoena to Birge's residential address via certified mail and regular mail. The correspondence sent by certified mail was not claimed. The United States Postal Service did not return the subpoena sent by regular mail as undeliverable.
26. On April 16, 2013, Birge failed to appear pursuant to the Director's subpoena at the subpoena conference held that same date.
27. During its investigation, the Division discovered the full nature and extent of Birge's felony convictions, as follows:
 - a. *United States of America v. Corlis Birge, et al.*, United States District Court, Southern District of Illinois, Case No. 3:1996-CR-30102 WDS (Conspiracy to Distribute Cocaine and Cocaine Base, in violation of 21 U.S.C. Section 846 and 18 U.S.C. Section 2). Birge pled guilty on September 16, 1997. On September 23, 1998, she was sentenced to 57 months in the United States Bureau of Prisons, supervised release for four years after that, and a \$500 fine. On September 2, 1999, the court reduced Birge's 57 month sentence to 26 months. On June 7, 2000, Birge's probation case was transferred to the United States District Court, Eastern District of Missouri, and was given a new case number: 4:00CR259 JCH. On November 7, 2003, upon Birge's admission that she had violated her probation, the court revoked her probation and sentenced her to 10 months in the United States Bureau of Prisons.
 - b. *People of Illinois v. Carlis Birge*, No. 03CF0147901 (Unlawful Possession of a Controlled Substance (cocaine), a Class 4 Felony, in violation of Chapter 720, Act 570, Section 402(c), Illinois Compiled Statutes (1992)). Birge pled guilty and was sentenced on March 17, 2004, to 18 months in prison, to be served concurrently with the federal time she was completing as a result of her probation violation.

CONCLUSIONS OF LAW

28. Section 375.141 RSMo Supp. 2012¹ 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;

* * *

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

29. 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 shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

30. 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, 209 (Mo. App. S.D. 1990).
31. 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).
32. Birge may be refused an insurance producer license pursuant to § 375.141.1(2) because she failed to adequately respond to two inquiries, from November 27, 2012 and February 20, 2013, from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a department

¹ All statutory references are to RSMo Supp. 2012 unless otherwise noted.

regulation.

33. Birge may be refused an insurance producer license pursuant to § 375.141.1(2) because she violated a subpoena of the Director by failing to appear at the subpoena conference on April 16, 2012, as ordered by the Director's subpoena.
34. Each failure to provide an adequate response to the Division or failure to provide a reasonable justification for the delay, and the failure to appear at the subpoena conference, is a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
35. Birge may be refused an insurance producer license pursuant to § 375.141.1(6) because she has been convicted of two felonies:
 - a. *United States of America v. Carlis Birge, et al.*, United States District Court, Southern District of Illinois, Case No. 3:1996-CR-30102 WDS (Conspiracy to Distribute Cocaine and Cocaine Base, in violation of 21 U.S.C. Section 846 and 18 U.S.C. Section 2).
 - b. *People of Illinois v. Carlis Birge*, No. 03CF0147901 (Unlawful Possession of a Controlled Substance (cocaine), a Class 4 Felony, in violation of Chapter 720, Act 570, Section 402(c), Illinois Compiled Statutes (1992)).
36. Each felony conviction is a separate and sufficient cause for refusal under § 375.141.1(6).
37. Birge may be refused an insurance producer license pursuant to § 375.141.1(6) because she has been convicted of two crimes involving moral turpitude. As noted, Birge was convicted in federal court of conspiracy to distribute cocaine. "Conviction for narcotics dealings involves a crime involving moral turpitude." *Mo. Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 709 (Mo. App. E.D. 1989), citing *In re McNeese*, 142 S.W.2d 33, 34 (Mo. banc 1940). Birge was also convicted in Illinois state court of possession of a controlled substance, cocaine. Possession of narcotics is also a crime involving moral turpitude. *In re Shunk*, 847 S.W.2d 789, 791-92 (Mo. banc 1993).
38. Each conviction of a crime of moral turpitude is a separate and sufficient cause for refusal under § 375.141.1(6).
39. The Director has considered Birge's history and all of the circumstances surrounding Birge's Application. Birge has been convicted of felonies involving controlled substances, in both state and federal court, and she had difficulty with the structured nature of federal probation, which she ultimately violated. Birge continues to have difficulty with structure, as she failed to adequately respond to Division inquiries and failed to attend a subpoena conference. Granting Birge an insurance producer

license given these facts would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue an insurance producer license to Birge.

40. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the individual resident insurance producer license application of **Carlis Birge** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 22nd DAY OF JULY, 2013.




JOHN M. HUFF
DIRECTOR

NOTICE

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

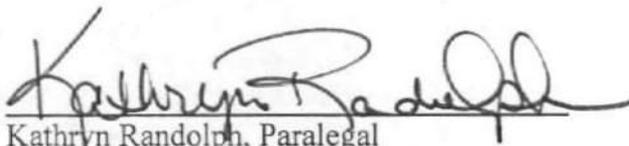
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 23rd day of July, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular mail and by UPS at the following address:

Carlis Birge
1018 Trifecta Drive
Florissant, Missouri 63034

Tracking No. 1Z0R15W84290804020



Kathryn Randolph, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.randolph@insurance.mo.gov