



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:)
)
HEATHER NICHOLE DAVIS,) **Case No. 160808376C**
)
Applicant.)

CONSENT ORDER

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Mark J. Rachel, and Heather Nichole Davis have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Director” of the “Department”) whose duties, pursuant to Chapters 374 and 375 RSMo¹ include the licensure, supervision, and discipline of insurance producers in the State of Missouri.

2. The Consumer Affairs Division of the Department (the “Division”) has the duty of conducting investigations into the qualifications of insurance producer license applicants and has been authorized by the Director to initiate actions before the Director to enforce the

¹ All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement.

insurance laws of Missouri, including insurance producer license application refusal.

3. On or about July 6, 2004, Heather Nichole Davis, née Call (“Davis”), pled guilty to Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, a Class C Felony, in violation of § 195.202 RSMo.² *State v. Heather N. Call*, Callaway Co. Cir. Ct., Case No. 04CR-166721-01. By pleading guilty, she admitted to having “possessed cocaine, ... knowing of its presence and illegal nature.”³ *Id.* The court suspended imposition of sentence (“SIS”) and ordered Davis to complete five years of supervised probation. *Id.*

4. Davis confessed to violating the terms of her probation on or about March 8, 2005 in open court, but the court continued her SIS and probation. *Id.*

5. Davis confessed to violating the terms of her probation again on or about August 8, 2006, because she had been charged with additional crimes (that were later dismissed). *Id.* The court then revoked her probation and entered its judgment sentencing her to four years’ incarceration. However, the court suspended the execution of the sentence and continued probation. Davis successfully completed probation in 2009. *State v. Heather N. Call*, Callaway Co. Cir. Ct., Case No. 04CR-166721-01.

6. On June 9, 2016, the Department received Davis’s Uniform Application for Individual Producer License/Registration (“Application”).

7. Davis disclosed her criminal record to the Department by her Application, admitting that she “chose to make the decision to sell drugs[,]” that “[a]fter being caught [she] ... went on the run ... [for] about 3 months[,]” and that her “husband got hit with all of [her] charges ... and went to prison for 3 years and came out with 5 years left of parole. He had to

² All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri pursuant to which each judgment was rendered.

³ See *Robinson v. State*, 491 S.W.2d 314, 315 (Mo. banc 1973) (“A plea of guilty voluntarily and understandingly made is conclusive as to the guilt of the accused, [and] admits all of the facts charged[.]”).

endure all of that because of a choice that [Davis] decided to make[.]”

8. Davis understands and agrees that pursuant to § 375.141.1(6) the Director may refuse to issue Davis a resident insurance producer license because she has been convicted of a felony or crime involving moral turpitude.

9. Davis stipulates and agrees to waive any waivable rights that she may have to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order, and forever releases and holds harmless the Department, the Division, the Director, and his agents from all liability and claims arising out of, pertaining to, or relating to this matter.

10. Davis acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other jurisdictions. Davis further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications in this state and elsewhere, and that it is her responsibility to comply with the reporting requirements of each jurisdiction in which she may be licensed.

11. All signatories to this Consent Order certify by signing that they are fully authorized, in their own capacities, or by the named parties they represent, to accept the terms and provisions of this Consent Order in their entirety and agree, in their personal or representative capacities, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

12. Section 375.141.1 provides, in relevant 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:

* * *

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

13. The foregoing facts hereby admitted by Davis constitute cause for the Director to refuse Davis's Application pursuant to § 375.141.1(6).

14. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

15. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance of this Consent Order is in the public interest.

ORDER

IT IS ORDERED that the Department will issue a resident insurance producer license to Heather Nichole Davis, subject to the conditions set forth herein and the following special conditions:

1. Heather Nichole Davis shall report to the Consumer Affairs Division any violation of or failure to comply with Missouri insurance laws and regulations, including those set forth in Chapters 374 and 375, within five (5) business days of such violation or failure to comply.

2. Heather Nichole Davis shall respond to all inquiries from the Consumer Affairs Division in accordance with 20 CSR 100-4.100.

3. If a consumer complaint is communicated directly to Heather Nichole Davis, she shall send the Consumer Affairs Division a copy of the complaint and a copy of her response to the consumer within five (5) business days of receipt of the consumer complaint.

4. Heather Nichole Davis shall report to the Consumer Affairs Division any administrative action taken against her by any other state or federal governmental agency in Missouri or any other jurisdiction within five (5) business days of the final disposition of such administrative action.

5. Heather Nichole Davis shall report to the Consumer Affairs Division any of the following incidents involving her: the first court hearing or appearance in any criminal proceeding, guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Heather Nichole Davis shall report all such incidents to the Consumer Affairs Division within five (5) business days of their occurrence.

6. Heather Nichole Davis shall voluntarily surrender her resident insurance producer license to the Department within five (5) business days of any of the following incidents involving her: guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor, regardless of whether any associated sentence is suspended or executed.

7. The special conditions listed in the preceding six (6) paragraphs will expire upon the expiration, lapse, termination, revocation, or renewal of Heather Nichole Davis's resident insurance producer license, whichever occurs first.

IT IS FURTHER ORDERED that if Heather Nichole Davis fully complies with the terms and conditions of this Consent Order, she may apply to renew her resident insurance producer license and the Director shall consider any renewal application in accordance with Chapters 374 and 375, but without regard to the prosecution known as *State v. Heather N. Call*, Callaway Co. Cir. Ct., Case No. 04CR-166721-01.

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies as determined appropriate by the Director and without limitation, as authorized by Chapters 374 and 375, including remedies for violating or failing to comply with the terms and conditions of this Consent Order.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 8TH DAY OF SEPTEMBER, 2016.



JOHN M. HUFF, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Heather Nichole Davis has the right to a hearing, but that Heather Nichole Davis has waived the hearing and agreed to the issuance of this Consent Order.

Heather Nichole Davis
Heather Nichole Davis, Applicant
322 Indian Meadow Drive
Jefferson City, Missouri 65101
(573) 694-3645

8-31-2016
Date

Counsel for Respondent
Missouri Bar #: _____
Address: _____

Telephone: _____
Facsimile: _____
E-mail: _____

Date

Mark J. Rachel
Mark J. Rachel, Missouri Bar #66167
Counsel for Consumer Affairs Division
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
Mark.Rachel@insurance.mo.gov

16 September 2016
Date