State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Christine M. Keppers,	)	**Case No. 100512455C**
	)	
Applicant.	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On September 17, 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 issue an insurance producer license to Christine M. Keppers. 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. Christine M. Keppers ("Keppers") is an individual residing in Wisconsin.

2. On or about December 2, 2008, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Keppers' Uniform Application for Individual Non-Resident Insurance Producer License ("First Application").

3. In her First Application, Keppers listed her residential and mailing address as 1009 Wirtz Ave., Green Bay, Wisconsin, 54304-2543. Keppers listed her business address as 3100 Ams Blvd., Green Bay, Wisconsin, 54313.

4. Based on information from the National Association of Insurance Commissioners, Keppers' current residential and mailing address is 6261 Bader Rd., Luxemburg, Wisconsin, 54217-9146.

5. In the section of the First Application headed "Background Questions," Background Question No. 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. Keppers answered "Yes" to Background Question No. 1.

7. Question No. 1A asks: If you have a felony conviction, have you applied for a waiver[1] as required by 18 USC 1033?"

[1] An 18 U.S.C. 1033 waiver is also known as a 1033 consent. *See* 18 U.S.C. 1033(e)(2).

8. Keppers answered "No" to Background Question No. 1A.

9. Question No. 1B asks: "If so, was that waiver granted? (Attach copy of 1033 waiver approved by home state."

10. Keppers answer "No" to Background Question No. 1B.

11. By answering "Yes" to Background Question No. 1, the First Application states that the applicant must provide: "a) a written statement explaining the circumstances of each incident, b) a certified copy of the charging document, [and] c) a certified copy of the official document, which demonstrates resolution of the charges or any final judgment."

12. With her First Application, Keppers provided a brief description of the felony charges and conviction, which states, in relevant part:

> I was party to a crime concerning felony charges back in 1991 dealing with forgery with my brother in law Donald Keppers. I was a single mother, just divorced with a 2 year old son. He took advantage of me when he knew I needed money. I know now what I did then was wrong. I live every single day knowing that. Because of him I trust no one anymore. That is an issue I am dealing with for 18 years.
>
> I was found guilty in Brown County on 10/16/92. I went to jail on Huber Law for 45 days. I was supposed to have 2years (sic) probation; it turned into 5years so I could pay everything back which I did.
>
> The reason I would like to become licensed is because of the position I have at work which I have had now for 2 years. It is mandatory.

13. With her First Application, Keppers provided copies of documents from the "Wisconsin Circuit Court Access" which appear to be computer generated documents listing the charges and disposition relating to her felony charges. The copies are not certified court records.

14. According to the documents provided by Keppers, she pleaded guilty to five counts of "Forgery Class C Felony" on October 16, 1992. The documents do not describe the sentence imposed upon Keppers.

15. On December 17, 2008, Special Investigator Dana Whaley, Consumer Affairs Division, mailed by U.S. Mail, postage prepaid, a letter to Keppers at her residential and mailing address (hereafter, address of record) provided on her First Application, requesting a written explanation of each felony, what she forged, and what steps she has taken to ensure this will not occur in the future. Investigator Whaley also asked Keppers to provide certified copies of the charges, judgment, and sentence and a certified copy of the official document demonstrating the resolution of the charges.

16. The December 17, 2008 letter stated that Keppers' response was due on or before January 7, 2009.

17. On January 2, 2009, the Consumer Affairs Division received un-certified copies of court records from Keppers. Keppers did not provide a written explanation of each felony as requested in Investigator Whaley's December 17, 2008 letter.

18. On January 20, 2009, the Consumer Affairs Division issued a Subpoena Duces Tecum pursuant to § 374.190 and served it upon Keppers by certified mail. Keppers signed the PS Form 3811 ("Green Card") acknowledging receipt of the subpoena.

19. On February 3, 2009, Keppers called Investigator Whaley and indicated that she had received the subpoena, but would be unable to appear as she lives in Wisconsin.

20. On February 4, 2009, Keppers sent to Investigator Whaley a copy of a 1033 consent from the Wisconsin Office of the Commissioner of Insurance dated January 6, 2009. The 1033 consent indicates that Keppers requested a 1033 consent from the State of Wisconsin, Office of the Commissioner of Insurance, in November 2008.

21. Also on February 4, 2009, Keppers provided additional un-certified court records, but failed to provide a written explanation of Keppers' felonies or respond to Whaley's other requests for information.

22. On February 4, 2009, Keppers emailed the following explanation to Investigator Whaley (quoted in relevant part):

> In regards to the forgery I committed in 1991. I forged 5 checks my former brother in law had. He asked me at a very vulnerable time in my life. I was 19 years old. I had just moved back home to WI from MN where my ex husband was stationed for the Coast Guard. We had a 2 yr old @ the time. I was filing for divorce and was working 3 partime (sic) jobs and receiving welfare, which did not provide much for rent and food. Don my former brother in law knew I needed money to support my son and took advantage of me because he asked me if I knew how to fill out a check. I didn't think too much about at the time when I said yes. I didn't know if I was naïve or just didn't know any better at the time. I have done my time and paid every thing back in restitution.

23. On February 17, 2009, Investigator Whaley sent Keppers an email detailing again the information needed for consideration of her application and asking Keppers to address specific questions regarding the felonies she committed: "Did you cash the checks? Did you keep the money? What occurred after you forged the checks? . . . I also asked you in my correspondence dated December 17, 2008 what steps you have taken to ensure that a situation like this will not occur in the future." Whaley further indicated that Keppers has still failed to provide the certified court records as previously requested.

24. On February 18, 2009, Keppers emailed Investigator Whaley stating the following: "Yes I did cash the checks. The money went towards food and rent and diapers for

my son. I spent 45 days in jail and 5yrs on probation which was suppose (sic) to be 3 yrs. But they extended it so I could pay back the restitution. I will never make that mistake again. I have grown up a lot since then."

25. On February 18, 2009, Investigator Whaley received an email from Craig De Muth, Telesales Licensing Services Administrator with Ovations Enterprise Services. De Muth also sent the email to Keppers. In the email, De Muth tells Keppers that "the Missouri Dept. of Insurance is going to need a formal letter sent to them stating these facts, and they also require a certified court document with the court seal. Copies will not be sufficient."

26. On February 18, 2009, Investigator Whaley sent Keppers an email stating that the subpoena conference scheduled for February 19, 2009 would be postponed, subject to rescheduling. Whaley told Keppers that she does not need a formal letter; email would suffice. Whaley stated that "original certified court documents, including the court seal are still required." Whaley gave Keppers until March 11, 2009 to provide the documents. Whaley explained to Keppers that "[f]urther consideration regarding your application for a Missouri non-resident insurance producer license will not be made until the documents are received."

27. On February 18, 2009, Keppers emailed Investigator Whaley stating that "[a]ll the court documents were sent to ilsa." After Whaley inquired by email regarding "ILSA", Misty Samuels, Licensing Specialist with Insurance Licensing Services of America, explained that ILSA is a third party vendor that helps UHC get their licenses.

28. On June 5, 2010, Investigator Whaley received a telephone call from Samuels inquiring about the status of Keppers' application. Whaley advised Samuels that the original certified court documents were due on March 11, 2009, but the Consumer Affairs Division had not received the documents. Whaley thereafter received nothing from Samuels.

29. On March 8, 2010, Keppers submitted another Uniform Application for Individual Non-Resident Insurance Producer License ("Second Application). Keppers listed the same residential, mailing and business addresses as the First Application.

30. In the section of the Second Application headed "Background Questions," Background Question No. 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?"

31. Keppers answered "Yes" to Background Question No. 1.

32. Question No. 1A asks: If you have a felony conviction, have you applied for a waiver as required by 18 USC 1033?"

33. Keppers answered "N/A" to Background Question No. 1A.

34. Question No. 1B asks: "If so, was that waiver granted? (Attach copy of 1033 waiver approved by home state.)"

35. Keppers answer "N/A" to Background Question No. 1B.

36. By answering "Yes" to Background Question No. 1, the Second Application states that the applicant must provide: "a) a written statement explaining the circumstances of each incident, b) a certified copy of the charging document, [and] c) a certified copy of the official document, which demonstrates resolution of the charges or any final judgment."

37. Keppers attached to her Second Application the same explanation regarding the felony charges as she did with her First Application.

38. Keppers attached photocopies of certified court records from her felony convictions. The Consumer Affairs Division never received the original certified court records as requested numerous times by Investigator Whaley.

39. Keppers did not acknowledge in or attach to her Second Application any 1033 waiver approved by her home state of Wisconsin.

40. In addition to the Wisconsin 1033 waiver requested in November 2008, and issued January 6, 2009, the California Department of Insurance issued a 1033 waiver to Keppers on August 5, 2009. Keppers did not attach the California 1033 waiver.

41. 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?

42. Keppers answered "Yes" to Background Question No. 2.

43. By answering "Yes" to Background Question No. 2, the Second Application instructed Keppers to provide "a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a certified copy of the Notice of Hearing or other document that states the charges and allegations, and c) a certified copy of the official document, which demonstrates the resolution of the charges or any final judgment."

44. By answering "Yes" to Question No. 2 in the Second Application, Keppers was required to provide did not provide the statement and certified documents relating to the administrative action taken against her license. Keppers did not provide to the Department the statement and certified documents relating to the administrative action taken against her license, as required by the Second Application.

45. On April 3, 1992, Keppers was charged by Information with eight counts of Forgery, a Class C felony, arising from falsely making a bank check, with the intent to defraud. *Wisconsin v. Christine Keppers*, Brown County Circuit Court Branch, No. 92CF121. Keppers pleaded guilty to five of the charges on October 16, 1992, and the remaining charges were dismissed.

46. On August 10, 2009, the California Department of Insurance restricted Keppers'

insurance producer license by placing it on probation because of her criminal record/history of felony.

47. On January 5, 2010, the Virginia State Corporation Commission, Bureau of Insurance, revoked Keppers' insurance producer license for failure to report another state's action against her license.

48. On June 24, 2010, the Georgia Office of Insurance and Safety Fire Commissioner placed Keppers' insurance producer license on probation for one year as a result of a consent order arising from her criminal record/history.

CONCLUSIONS OF LAW

49. Section 375.141 RSMo (Supp. 2009)[2] 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;
>
> (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;
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

50. Title 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

[2] All statutory references are to RSMo (Supp. 2010) unless otherwise indicated.

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

51. 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). In *Brehe v. Mo. Dept. of Elementary & Secondary Education*, which involved an attempt to discipline a teacher's certificate under § 168.071 for committing a crime involving moral turpitude, the court referred to three categories of crimes:

> (1) crimes that necessarily involve moral turpitude (referred to in *Brehe* as "category 1" crimes);
>
> (2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude" ("category 2" crimes); and
>
> (3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily ("category 3" crimes).

See Brehe v. Missouri Dep't of Elementary & Secondary Educ., 213 S.W.3d 720, 725 (Mo. App. 2007).

52. Category 1 crimes, since they necessarily involve moral turpitude, require no analysis beyond their elements to show moral turpitude; category 3 crimes require some examination of the facts supporting the conviction in order to determine whether they involve moral turpitude. See *Brehe* at 725-727. Keppers' crime of forgery is a category 1 crime because it necessarily involves moral turpitude. See *Randman v. Board of Therapeutic Massage*, No. 08-0755 TM (Mo. Admin. Hrg. Comm'n Jan. 22, 2009) (denial of license for conviction of felony forgery).

53. The principal purpose of § 375.141 RSMo is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

54. Keppers' five felony convictions for forgery are grounds to refuse Keppers' non-resident insurance producer license under § 375.141.1(6).

55. Furthermore, forgery is necessarily a crime of moral turpitude which is another ground for refusal under § 375.141.1(6).

56. Keppers answered "No" to Background Question Nos. 1A and 1B on her First Application for licensure even though she had requested a 1033 waiver from the Wisconsin Office of the Commissioner of Insurance in November 2008, only one month before submitting her First Application to the Department. Keppers intentionally provided materially incorrect, misleading, incomplete or untrue information, which is a cause to refuse her non-resident insurance producer license under § 375.141.1(1).

57. Keppers answered "N/A" to Background Question Nos. 1A and 1B on her Second Application for licensure submitted on March 4, 2010, even though she had requested a 1033 waiver from the Wisconsin Office of the Commissioner of Insurance in November 2008, and even though she had requested and received a 1033 Written Consent, effective August 5, 2009, from the California Department of Insurance. Keppers intentionally provided materially incorrect, misleading, incomplete or untrue information, which is a cause to refuse her non-resident insurance producer license under § 375.141.1(1).

58. Keppers' failure to honestly answer Background Question Nos. 1A and 1B in her First and Second Applications demonstrates Keppers' attempt to obtain her Missouri license through material misrepresentation or fraud, which is a cause to refuse Keppers' insurance producer license under § 375.141.1(3).

59. Keppers failed to adequately respond to multiple Division of Consumer Affairs' inquiries regarding her criminal convictions and specifically failed to provide, as required by the First and Second Applications and as repeatedly requested by Investigator Whaley, the original certified court records regarding her convictions. These failures to respond constitute cause to refuse Keppers' Applications for a non-resident insurance producer license under § 375.141.1(2) for violating 20 CSR 100-4.100.

60. Under § 375.141.1(9), Keppers' non-resident insurance producer license may be refused because she has had an insurance producer license revoked in Virginia on January 5, 2010.

61. The Director has considered Keppers' history and all of the circumstances surrounding her application.

62. Despite repeated opportunities offered by Special Investigator Whaley, Keppers failed to adequately explain the background of her convictions and how she intended to avoid the problem in the future, and failed to provide original certified court documents. Keppers pleaded guilty to five counts of Forgery, which were not only felonies, but also crimes of moral turpitude. Keppers intentionally provided incorrect, misleading or untrue information in her First and Second Applications and attempted to obtain a license through material misrepresentation or fraud by answering falsely to the Background Questions. Keppers' insurance producer license in Virginia was revoked for failure to report action against her license by another state.

63. Granting Keppers a Missouri non-resident insurance producer license would not be in the interest of the public, and accordingly, the Director exercises his discretion by summarily refusing to issue Keppers a Missouri non-resident insurance producer license.

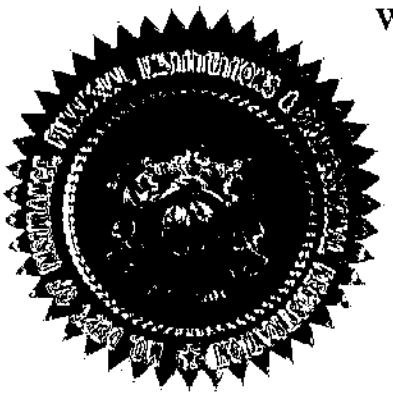
64. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Christine M. Keppers is hereby summarily **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 26TH **DAY OF** NOVEMBER**, 2010.**



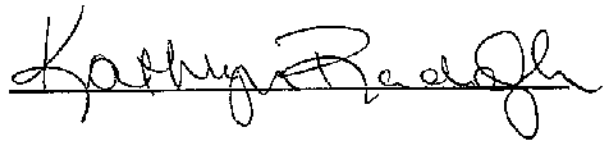
JOHN M. HUFF
DIRECTOR

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 29th day of November 2010, a copy of the foregoing Refusal was served upon the Applicant Christine M. Keepers in this matter by certified mail No. 7007 0710 0002 2055 2879 at

Christine M. Keppers
6261 Bader Rd.
Luxemburg, WI 54217-9146