



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:)

Leah N. Pierce,)

Applicant.)

Serve at:)

8410 Valley City Road)
Mauckport, Indiana 47142)

Case No. 110224253C

ORDER REFUSING TO ISSUE NON-RESIDENT INSURANCE PRODUCER LICENSE

On June 30, 2011, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Leah N. Pierce a Non-Resident Insurance Producer License. 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.

FACTUAL BACKGROUND

1. Leah N. Pierce ("Pierce") is an individual residing in Indiana, whose mailing address of record is 8410 Valley City Road, Mauckport, Indiana 47142.
2. On October 28, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a Uniform Application for Individual Non-Resident Insurance Producer License ("Application") from Pierce.
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. Pierce answered "Yes" to Background Question # 1.
5. Along with her Application, Pierce submitted two affidavits from Michael Krutz, an Indiana police officer, explaining her answer to Background Question #1.
 - a. The first affidavit provided that Pierce was charged with battery, a class D felony, for "knowingly or intentionally touch[ing]...a person less than fourteen (14) years of age in a rude, insolent, or angry manner resulting in bodily injury...to-wit: LEAH PIERCE grabbed and/or pushed [the person] causing pain...."
 - b. The second affidavit provided that Pierce was charged with battery, a class D felony, for "knowingly or intentionally touch[ing]...a person less than fourteen (14) years of age in a rude, insolent, or angry manner resulting in bodily injury...to-wit: LEAH PIERCE grabbed [the person] by the neck causing pain and/or marks...."
6. On November 5, 2010, Consumer Affairs Division Investigator Karen Crutchfield mailed a letter to Pierce's mailing address. The letter requested Pierce to provide the outcome and any relevant court documents she receives from a November 11, 2010 court hearing. The letter was not returned to the Department as undeliverable. Pierce's reply was due on or before November 26, 2010. Pierce did not respond to the November 5, 2010 letter and did not contact the Department in any way to provide a reasonable justification for a delayed response.
7. On November 30, 2010, Investigator Crutchfield mailed two letters by certified mail to Pierce at the mailing address and business address provided on her Application. The letters repeated the information provided and requests made in the November 5, 2010 letter. The certified receipt for the letter sent to Pierce's business address shows the letter was signed for by D. Gatamah. The certified receipt for the letter sent to Pierce's mailing address shows the letter was signed for by Heather Pierce. Pierce's reply was due on or before December 21, 2010. On December 7, 2010, Investigator Crutchfield received a packet of information on behalf of Pierce containing the same letter and affidavits Pierce submitted with her Application. However, the packet did not respond to the inquiries contained in the November 5, 2010 letter.
8. On January 10, 2011, Investigator Crutchfield mailed two more letters to the mailing and business addresses Pierce provided on her Application repeating the information provided and requests made in the November 5, 2010 letter.

The January 10, 2011 letter also asked Pierce to send Investigator Crutchfield any outcome of the pending felony charges. The letters were not returned as undeliverable. Pierce's reply was due on or before January 31, 2011. Pierce did not respond and did not contact the Department in any way to provide a reasonable justification for a delayed response.

9. On April 28, 2011, Pierce pleaded guilty to the charge of battery, amended to a class B misdemeanor and was sentenced to 30 days in county jail, with that sentence suspended in lieu of 30 days probation. *See State of Indiana v. Leah Pierce*, Harrison County Superior Court, Case No. 31D01-1007-FD-558. Pierce did not contact the Department in any way to notify it of the outcome of this matter, nor did she provide the court documents, as requested in the three inquiries dated November 5, 2010, November 30, 2010, and January 10, 2011.

CONCLUSIONS OF LAW

10. Section 375.141.1, RSMo (Supp. 2010),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:

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state[.]

11. 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.

12. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. For Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

¹ All statutory references are to the Revised Statutes of Missouri (Supp. 2010) unless otherwise noted.

13. 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).
14. The Director may refuse Pierce's non-resident insurance producer license Application pursuant to § 375.141.1(2) because by failing to respond to at least three inquiries from the Consumer Affairs Division, including inquiries dated November 5, 2010, November 30, 2011, and January 10, 2011, Pierce violated a Missouri insurance regulation, namely 20 CSR 100-4.100(2)(A).
15. The Director has considered Pierce's history and any and all of the circumstances surrounding Pierce's Application for licensure, and for the reasons stated in this Order summarily refuses to issue Pierce a non-resident insurance producer license.
16. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license of Leah N. Pierce is hereby summarily REFUSED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 30TH
DAY OF JUNE, 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 30th day of June, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 7009 3410 0001 9349 2983.

Leah N. Pierce
8410 Valley City Road
Mauckport, Indiana 47142


Kathryn Randolph, Paralegal