State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Marlisa A. Tellier,	)	Case No. 11-0223249C
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On November 4, 2011, Kristen E. Paulsmeyer, Enforcement Counsel and Counsel for the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Marlisa A. Tellier's 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 order.

FINDINGS OF FACT

1. Marlisa Tellier ("Tellier") is an individual residing in Missouri.

2. Tellier was licensed as a nonresident insurance producer with the Department of Insurance, Financial Institutions and Professional Registration ("Department") from December 4, 2007 through December 4, 2009, license number 0219759[1] and she has a current application pending with the Department.

3. On or about December 3, 2007, the Department received Tellier's Uniform Application for Individual Insurance Producer License ("2007 Application") dated November 13, 2007.

4. Background Information Question No. 2 of the 2007 Application asks:

> Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of limited liability company, ever been involved in an administrative proceeding regarding any professional or occupational license, or

[1] The Missouri nonresident insurance producer license was under the name of Marlisa Camerer. Marlisa Tellier was formerly known as Marlisa Camerer.

registration?

5. The 2007 Application contains the following definition under Background Information Question No. 2:

> "Involved" means having a licensed censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license. "Involved" also means having a license application denied or the act of withdrawing an application to avoid a denial. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

6. Tellier answered "no" in response to background question No. 2 on the 2007 Application.

7. On or about October 5, 2007, in the Order to Cease and Desist and Notice of Opportunity for Hearing, the State of Oklahoma Department of Securities, ordered Tellier[2] to cease and desist from engaging in the following: the offer and sale of unregistered securities in and/or from the state of Oklahoma; transacting business in this state as an agent without the benefit of registration under the Act; employing an unregistered agent; making untrue statements of material fact and/or omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; and/or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person, in connection with the offer and/or sale of securities in and/or from the state of Oklahoma. *In the Matter of: XXI st Century Group, L.L.C., Sheldon Mitchell, Marlissa* [sic] *Camerer, and Kevin Blackburn, Respondents,* ODS File No. 05-073.

8. On or about November 19, 2007, in the Final Order to Cease and Desist, the State of Oklahoma Department of Securities ordered that the Order to Cease and Desist issued against XXIst Century, Tellier, and Blackburn on October 5, 2007 was final by operation of law. *In the Matter of: XXI st Century Group, L.L.C., Marlissa* [sic] *Camerer, and Kevin Blackburn, Respondents,* ODS File No. 05-073.

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[2] All Oklahoma administrative actions and orders refer to Marlisa Camerer. Marlisa Tellier was formerly known as Marlisa Camerer and is the person referenced in these orders.

9. Tellier failed to disclose the October 5, 2007 Order to Cease and Desist and Notice of Opportunity for Hearing from the State of Oklahoma Department of Securities on her 2007 Application.

10. Tellier failed to report the November 19, 2007 Final Order to Cease and Desist from the Oklahoma Department of Securities to the Director within 30 days of the final disposition of the matter.

11. On or about February 14, 2008, the Oklahoma Funeral Board denied the Funeral Director/Embalmer license of Tellier for failing to complete apprenticeship requirements.

12. Tellier failed to report the February 14, 2008 denial of her Funeral Director/Embalmer license from the Oklahoma Funeral Board to the Director within 30 days of the final disposition of the matter.

13. On or about August 4, 2008, in the Administrative Order of Suspension Instanter, the Insurance Commissioner of the State of Oklahoma found that Tellier had violated 36 O.S. § 1435.13(A)(8) by demonstrating fraudulent, coercive or dishonest practices in the conduct of business in Oklahoma. The Insurance Commissioner of Oklahoma ordered Tellier's license suspended immediately and if Tellier failed to request a hearing within the required period of time, her producer license shall be revoked thirty (30) days from the date of receipt of the order. *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Marlissa* [sic] *Camerer, a licensed Oklahoma Insurance Producer*, Case No. 08-1081-DIS.

14. On or about September 12, 2008, in the Final Administrative Order, the Insurance Commissioner of the State of Oklahoma found that Tellier demonstrated "fraudulent, coercive or dishonest practices in the conduct of business in Oklahoma" and revoked Tellier's license. *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Marlissa* [sic] *Camerer, a licensed Oklahoma Insurance Producer*, Case No. 08-1081-DIS.

15. Tellier failed to report the September 12, 2008 Final Administrative Order from the Oklahoma Insurance Commissioner to the Director within 30 days of the final disposition of the matter.

16. On or about July 15, 2009, the Missouri State Board of Embalmers and Funeral Directors denied Tellier's application for a funeral director's license. The July 15, 2009 denial cited the Oklahoma administrative actions by the Oklahoma Department of Securities, Oklahoma Funeral Board, and Oklahoma Insurance Commissioner.

17. As Tellier admits, at the latest, Tellier was aware by July 15, 2009 of the administrative actions against her in Oklahoma by the Oklahoma Department of Securities, Oklahoma Funeral Board, and Oklahoma Insurance Commissioner yet she still failed to notify the Director of the Oklahoma administrative actions.

18. On or about October 7, 2010, the Department received Tellier's Uniform Application for Individual Producer License/Registration ("2010 Application") which was supplemented by Tellier on October 14, 2010.

19. In her 2010 Application, Tellier listed her mailing address as P.O. Box 51, Steelville, Missouri 65565.

20. Background Information Question No. 2 of the 2010 Application asks whether the applicant has ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration.

21. Tellier answered "Yes" to Question No. 2.

22. The Application contains the following instruction:

> If you answer yes, you must attach to this application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

23. In response, Tellier stated the following, in part:

> I answered Question 2 in the affirmative because I regrettably have been involved as a party in an administrative proceeding regarding a professional or occupational license or registration. I presently hold Funeral Director and Preneed Agent Funeral Director licenses that were issued by the Board of Embalmers and Funeral Directors ("Missouri BEFD") on September 14, 2010. Both licenses were issued on probation for a period of five years pursuant to a Settlement Agreement and Mutual Release dated July 30, 2010 that was reached in the case styled *Marlisa Anette Camerer Tellier v. State Board of Embalmers and Funeral Directors*, AHC Case No. 09-1121 EM ("BEFD Appeal").

* * *

The BEFD appeal references administrative actions of the Oklahoma Insurance Commissioner and the Oklahoma Commissioner of Securities affecting the insurance producer license issued by the Oklahoma Insurance Commissioner that I formerly held, and an alleged administrative action of the Oklahoma Funeral Board related to the application for Funeral Director and/or Embalmer License that I submitted and later withdrew.

* * *

I believe that this explanation and all of the attached documents fully identify the type of licenses at issue and the circumstances of each administrative action taken or allegedly taken. As I explained in my Amended Complaint and deposition, I was unaware of all of the formal administrative actions taken by the Oklahoma Insurance Commissioner and the Oklahoma Department of Securities and the alleged final administrative decision by the Oklahoma Funeral Board to deny a license application that I had previously withdrawn, until I received the letter of denial from the Missouri BEFD in 2009.

At the time I applied to the Missouri BEFD for a Funeral Director's license, I was unaware of the existence of the **Exhibits K, L, and M** from the Oklahoma Department of Securities[3] because these documents were sent to an old address and not forwarded to me despite the forwarding service that I paid to receive. I did receive **Exhibit H** from the Oklahoma Insurance Commissioner[4] pursuant to the forwarding service at the United States Post Office, but not until after the deadline for filing an appeal expired as demonstrated by the forwarding label on the envelope. With respect to this administrative case, I had an attorney contact the Oklahoma Insurance Commissioner about filing an appeal. This attorney was told that the deadline

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[3] [In Tellier's October 7, 2010 letter she describes her exhibits as follows:
Exhibit K: October 5, 2007 Order to Cease and Desist and Notice of Opportunity for Hearing issued by the Oklahoma Department of Securities
Exhibit L: October 5, 2007 Notice of Service on the Administrator and Affidavit of Compliance issued by the Oklahoma Department of Securities
Exhibit M: November 19, 2007 Final Order of the Oklahoma Department of Securities]

[4] [Tellier's October 7, 2010 letter describes Exhibit H as the following: August 5, 2008 Administrative Order of Suspension Instanter issued by the Oklahoma Insurance Commissioner]

for appealing had passed. I never received any formal, final and appealable order from the Oklahoma Funeral Board related to the application for a license that I submitted and withdrew. I did not inquire about any such order because I believed that when I became a permanent resident of the State of Missouri and married my husband the matter was moot. To date, the Oklahoma Funeral Board has been unable to provide a copy of such an order to either my attorney or the Missouri BEFD. As a result, I do not believe that any final and appealable order of the Oklahoma Funeral Board denying my withdrawn license application exists or can be legally valid assuming its existence given both my change in residence and the fact that no such document ever was served upon me so as to trigger my due process right of appeal. Similarly, I do not believe that the administrative orders of the Oklahoma Insurance Commissioner and the Oklahoma Department of Securities are valid because I received no timely knowledge of them so as to provide me a meaningful opportunity to exercise my due process right of appeal. I strongly disagree with the factual and conclusions of law in these documents. As I indicated to the Missouri BEFD, I plan to challenge the validity of these orders when I am in a position to hire an attorney in Oklahoma.

CONCLUSIONS OF LAW

24. Section 375.141 RSMo (Supp. 2010)[5] 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:
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> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> * * *
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial

[5] All statutory references are to the Revised Statutes of Missouri (Supp. 2010) unless otherwise noted. All statutory references are to RSMo (Supp. 2010) unless otherwise indicated. While some of the violations occurred prior to 2010, the text of relevant statutes in the 2010 Supplement is identical.

irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

* * *

6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

25. Title 36 O.S. § 1435.13 (West 2007) provides, in part:

(A) The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act or may levy a civil penalty in accordance with subsection D of this section or any combination of actions, for any one or more of the following causes:

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

26. 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. E.D. 1984).

27. The Director may refuse to issue Tellier an insurance producer license pursuant to § 375.141.1(2) for violating an insurance law or regulation of an insurance commissioner of another state in that the Oklahoma Insurance Commissioner found Tellier to be in violation of 36 O.S. § 1435.13(A)(8) by demonstrating "fraudulent, coercive or dishonest practices in the conduct of business in Oklahoma". *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Marlissa* [sic] *Camerer, a licensed Oklahoma Insurance Producer*, Case No. 08-1081-DIS.

28. The Director may refuse to issue Tellier an insurance producer license pursuant to § 375.141.1(2), because Tellier violated an insurance law of Missouri by failing to notify the Director of an administrative action taken against her within thirty days of the final disposition of the matter as required by § 375.141.6.[6] The Department issued Tellier a non-resident insurance producer license on December 4, 2007, which expired on December 4, 2009. The Oklahoma Department of Securities issued its Final Order to Cease and Desist on November 19, 2007. Tellier failed to notify the Director of the Oklahoma Department of Securities' Final Order within thirty days of the final disposition of the matter, which is cause to refuse to issue Tellier a license under § 375.141.1(2). *In the Matter of: XXI st Century Group, L.L.C., Marlissa* [sic] *Camerer, and Kevin Blackburn, Respondents,* ODS File No. 05-073.

29. The Director may refuse to issue Tellier an insurance producer license pursuant to § 375.141.1(2), because Tellier violated an insurance law of Missouri by failing to notify the Director of an administrative action taken against her within thirty days of the final disposition of the matter as required by § 375.141.6.[7] The Department issued Tellier a non-resident insurance producer license on December 4, 2007, which expired on December 4, 2009. The Oklahoma Funeral Board denied Tellier's Funeral Director/Embalmer license on February 14, 2008. Tellier failed to notify the Director of the Oklahoma Funeral Board's denial within thirty days of the final disposition of the matter, which is cause to refuse to issue Tellier a license under § 375.141.1(2).

30. The Director may refuse to issue Tellier an insurance producer license pursuant to § 375.141.1(2), because Tellier violated an insurance law of Missouri by failing to notify the Director of an administrative action taken against her within thirty days of the final disposition of the matter as required by § 375.141.6.[8] The Department issued Tellier a non-resident insurance producer license on December 4, 2007, which expired on December 4, 2009. The Oklahoma Insurance Commissioner issued its Final Administrative Order on September 12, 2008. Tellier failed to notify the Director of the Oklahoma Insurance Commissioner's Final Administrative Order within thirty days of the final disposition of the matter which is cause to refuse to issue Tellier a license under § 375.141.1(2). *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Marlissa* [sic] *Camerer, a*

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[6] While Tellier advised the Consumer Affairs Division she was not notified of the administrative action, and therefore, could not notify the Director within 30 days, she did become aware of the action during her period of licensure but still failed to notify the Director of the action.

[7] See footnote 6.

[8] See footnote 6.

licensed Oklahoma Insurance Producer, Case No. 08-1081-DIS.

31. The Director may refuse to issue Tellier an insurance producer license pursuant to § 375.141.1(8) because the Oklahoma Insurance Commissioner found Tellier demonstrated "fraudulent, coercive or dishonest practices in the conduct of business in Oklahoma". *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Marlissa* [sic] *Camerer, a licensed Oklahoma Insurance Producer*, Case No. 08-1081-DIS.

32. The Director may refuse to issue Tellier an insurance producer license pursuant to § 375.141.1(9) because Tellier's Oklahoma insurance license was revoked by the Oklahoma Insurance Commissioner in the September 12, 2008 Final Administrative Order. *State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner v. Marlissa* [sic] *Camerer, a licensed Oklahoma Insurance Producer*, Case No. 08-1081-DIS.

33. The Director has considered Tellier's history and all of the circumstances surrounding Tellier's Application. The Oklahoma Insurance Commissioner found that Tellier demonstrated fraudulent, coercive or dishonest business practices in the state of Oklahoma and revoked her Oklahoma insurance license. Additionally, Tellier failed to report three administrative actions to the Director within thirty days, or even as soon as she became aware of them; each failure to report is an independent violation. Any one of these violations is cause for the Director to refuse her 2010 Application. Granting Tellier an insurance producer license would not be in the interest of the public. For all of the reasons stated in the Petition, the Director has considered Tellier's history, and all of the circumstances surrounding Tellier's Application, and exercises his discretion in refusing Tellier's insurance producer license.

34. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Marlisa A. Tellier is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 15TH DAY OF NOVEMBER, 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 16th day of November, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No..

Marlisa A. Tellier
P.O. Box 51
Steelville, Missouri 65565
7008 2810 0000 2014 8830

Jennifer Tucker
Attorney for Applicant
314 East High Street
Jefferson City, Missouri 65101
7008 2810 0000 2014 9202

Kathryn Randolph

Kathryn Randolph
Missouri Department of Insurance,
Financial Institutions & Professional
Registration
301 W. High Street, Room 530
Jefferson City, MO 65101