



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:

VANESSA L. HARRIS,

Applicant.

)
)
) Case No. 14-0616519C
)
)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On August 25, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue an individual insurance producer license to Vanessa L. Harris. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Vanessa L. Harris ("Harris") is a Missouri resident with a residential address of record of 2948 E. Hawkins, Springfield, Missouri, 65804.
2. On August 27, 2008, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Harris's electronic application for a resident insurance producer license (the "2008 Application"). At the time, Harris was using her maiden name, Vanessa L. Garretson.
3. In the "Applicants Certification and Attestation" section of the 2008 Application, Item No. 1 stated:

I hereby certify that, under penalty of perjury, 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. Harris marked "Yes" to the Applicants Certification and Attestation section of the 2008 Application, indicating her agreement with, *inter alia*, Item No. 1, and thereby certifying and attesting that all of the information she submitted in the application and attachments was true and complete.

5. Background Question No. 1 of the 2008 Application asked:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime? "Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses. "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) a certified copy of the charging document,
- c) a certified copy of the official document, which demonstrates the resolution of the charges or any final judgment.

6. Harris answered "No" to Background Question No. 1 of the 2008 Application and did not disclose any criminal history in the 2008 Application.

7. On August 28, 2008, relying on Harris's representations in the 2008 Application, the Director issued Harris an insurance producer license. That license expired on August 28, 2010.

8. On April 2, 2014, the Department received Harris's electronic application for a resident insurance producer license (the "2014 Application"), which became complete on April 14, 2014, after Harris provided further information requested by the Department.

9. Background Question No. 1B of the 2014 Application asks the following, in relevant part:

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

You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).

10. Harris marked "Yes" to this part of Background Question No. 1B but did not attach documentation or a written explanation as required by the 2014 Application to fully disclose her criminal history.

11. Upon request by the Department's Licensing Section, on April 11, 2014, Harris provided uncertified documentation and a written explanation indicating that Harris was convicted on May 22, 2009, of the felony of Stealing. Harris explained, verbatim, that:

In 2007, I worked at Wal-Mart in Springfield Missouri. I was 18 at the time and while employed there, a few people in the break room talked about how they were able to steal money while working. I joined them in that awful idea. Over a 6-7 month period I would steal money from the cash register upon it reaching a felony conviction I was arrested. In May 2009 I was convicted of felony stealing. I stole right at \$700. I was given probation for 5 years with a suspended sentence of 4 years. I have paid all money back to Wal-Mart as well as completed all parts of my probation. I am no longer on probation I was let off a year early for good behavior. I FULLY understand the horrible choice I made. I have never been in any trouble before this or since the incident occurred. I truly hope that the past will not continue to define my future any further than it already has. I consider myself an outstanding employee and I can provide references from the insurance agent I work with.

12. Investigation by the Department's Division of Consumer Affairs (the "Division") disclosed that on July 6, 2007, Harris pleaded guilty in the Greene County Circuit Court to the Class C Felony of Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000), in violation of § 570.030, RSMo. The court placed Harris on probation pursuant to a restorative justice program agreement, which included paying restitution to Wal-Mart and completing 150 hours of community service. On May 22, 2009, the court sentenced Harris to four years' imprisonment, but suspended execution of the sentence and placed Harris on five years' probation. On August 1, 2013, Harris was discharged from probation.¹
13. Investigation by the Division further disclosed that the charges in Case No. 31307CF1285 were filed against Harris on February 28, 2007.²
14. On April 17, 2014, Karen Crutchfield, a Special Investigator for the Division, mailed Harris an inquiry letter, noting that a conviction of felony theft may subject Harris to the requirement of obtaining a waiver from the Director under 18 U.S.C. § 1033 (a "1033 Waiver") in order to work in the insurance industry, and including an application for a 1033 Waiver for Harris's convenience. Crutchfield also asked Harris in the inquiry whether she had disclosed that she had been charged with a crime when she submitted the 2008 Application, and whether she reported the crime at any time when she held an insurance producer license.
15. On May 14, 2014, the Department received Harris's application for a 1033 Waiver under 18 U.S.C. § 1033 (the "1033 Waiver Application"). Harris did not provide any response to Crutchfield's inquiries concerning disclosure to the Department of her charge or conviction.

¹ *State of Missouri v. Vanessa Garretson*, Greene Co. Cir. Ct., No. 31307CF1285.

² *Id.*

16. On May 15, 2014, Crutchfield mailed Harris another inquiry letter, again asking Harris whether she had disclosed that she had been charged with a crime when she submitted the 2008 Application and whether she reported the crime at any time when she held an insurance producer license, inquiring about Harris's criminal history and her employment in the insurance field without having obtained a 1033 Waiver, and asking Harris to explain how she had changed her life since her conviction.
17. On May 28, 2014, the Department received Harris's response to Crutchfield's May 15, 2014 inquiry, in which Harris explained, in part, verbatim, that:

The reason I didn't report it when I was applying for my license was because at the time my lawyer advised against it. At the time in 2008 when I was applying for my original license my lawyer was trying to get the charge removed from ever showing. That was not the case and by 2009 when I was convicted I was no longer working in the insurance industry, I also had no plans of returning which is why I never sent anything in.

* * *

As for an explanation as to my arrest, conviction, and why I did these things; I was trying to "fit in" with a less than suitable group of people. I was under the impression they were doing it as well and getting away with it. I have no other reason other than the fact that I thought I could get away with it.

Harris further explained that since her conviction she had married and had a child, and has become a different person, focused on following her religious convictions.

18. Harris's explanation for her failure to disclose in her 2008 Application that she had been charged with the Class C Felony of Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000) and had been placed on probation pursuant to a restorative justice program agreement, is not credible. Background Question No. 1 of the 2008 Application plainly asked "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?" The question lists a series of charges or convictions that need not be disclosed, and Theft/Stealing is not among them. By its definition of "convicted," Background Question No. 1 further required a "Yes" response and disclosure both when an applicant has pleaded guilty and when an applicant has been placed on probation. Further, even Harris's explanation claims only that the attorney was "trying to get the charge removed from ever showing," implicitly acknowledging that at the time that she submitted her 2008 Application, the charge, her guilty plea, and her probation remained a matter of record.
19. It is inferable, and is hereby found as fact, that Harris failed to disclose in her 2008

Application that she had pleaded guilty to the Class C Felony of Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000) and had been placed on probation pursuant to a restorative justice program agreement, in order to conceal that criminal history, and hence her acts of theft, from the Director, and, accordingly, in order to improve the chances that the Director would approve her 2008 Application and issue her an insurance producer license. As a result of this intentional failure to disclose her felony criminal history and her acts of theft, the Director issued Harris an insurance producer license.

CONCLUSIONS OF LAW

20. Section 375.141, RSMo Supp. 2013, 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;

* * *

(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;

* * *

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

21. 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).

22. The Director may refuse to issue an insurance producer license to Harris under § 375.141.1(6) because Harris has been convicted of a felony:

a. Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000), a Class C Felony in violation of § 570.030, RSMo.³

23. The Director may refuse to issue an insurance producer license to Harris under

³ *State of Missouri v. Vanessa Garretson*, Greene Co. Cir. Ct., No. 31307CF1285.

§ 375.141.1(6) because Harris has been convicted of a crime of moral turpitude:

- a. Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000), a Class C Felony in violation of § 570.030, RSMo, and a crime of moral turpitude.⁴
24. The Director may refuse to issue an insurance producer license to Harris under § 375.141.1(1) because Harris intentionally provided materially incorrect, misleading, incomplete or untrue information in the 2008 Application. Harris intentionally failed to disclose in her 2008 Application that she had pleaded guilty to the Class C Felony of Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000) and had been placed on probation pursuant to a restorative justice program agreement, which failure to disclose rendered the information provided in the 2008 Application materially incorrect, misleading, incomplete and untrue.
 25. The Director may refuse to issue an insurance producer license to Harris under § 375.141.1(3) because Harris attempted to obtain and did obtain a Missouri insurance producer license through material misrepresentation or fraud. Harris failed to disclose in her 2008 Application that she had pleaded guilty to the Class C Felony of Theft/Stealing (Value of Property or Services Is \$500 or More but Less than \$25,000) and had been placed on probation pursuant to a restorative justice program agreement, in order to conceal that criminal history, and hence her acts of theft, from the Director, and, accordingly, in order to improve the chances that the Director would approve her 2008 Application and issue her an insurance producer license. As a result of this intentional failure to disclose her felony criminal history and her acts of theft, the Director issued Harris an insurance producer license.
 26. The Director may refuse to issue an insurance producer license to Harris under § 375.141.1(8) because Harris used dishonest practices and demonstrated untrustworthiness and financial irresponsibility in the conduct of business in this state. Harris stole approximately \$700.00 over six to seven months from Wal-Mart while she was employed by Wal-Mart. Harris's theft of money from her employer was dishonest in that Harris violated the trust her employer placed in her by placing her in a position as an employee to handle the employer's money. Harris's violation of the trust placed in her by her employer also showed that she was unworthy of trust. Her theft of her employer's money was also financially irresponsible.
 27. The Director has considered Harris's history and all of the circumstances surrounding Harris's Application. Granting Harris an insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue an insurance producer license to Harris.

⁴ *Id.*

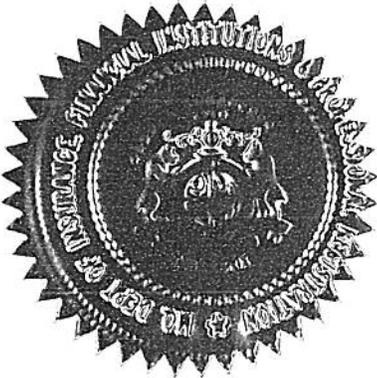
28. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the individual insurance producer license application of **Vanessa L. Harris** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 29th DAY OF August, 2014.




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 3rd day of September, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, with signature required, at the following address:

Vanessa L. Harris
2948 E. Hawkins
Springfield, Missouri, 65804

Tracking No. 1Z0R15W84294519715


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