

**DEPARTMENT OF COMMERCE AND INSURANCE**

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

**IN RE:** )  
 )  
 **ERICA NICHOLE MICKLE,** ) **Case No. 2005150444C**  
 )  
 **Applicant.** )

**ORDER REFUSING TO ISSUE**  
**AN INSURANCE PRODUCER LICENSE**

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance (“Director” of the “Department”) takes up the above matter for consideration and disposition. After reviewing the Petition, the Investigative Report, and other relevant documents, the Director issues the following findings of fact, conclusions of law, and order:

**FINDINGS OF FACT**

1. Erica Nichole Mickle (“Mickle”) is a South Carolina resident with a residential and mailing address of record of 1621 Longwater Street, Columbia, South Carolina 29203, and a business address of record of 2340 Broad River Road, Columbia, South Carolina 29210.
2. On October 29, 2019, Mickle submitted her electronic application for a non-resident insurance producer license (“Application”).
3. Background Question No. 1A of the Application asks:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor? You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude

juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court)[.]

4. Background Question No. 1B of the Application asks, 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)[.]

5. Mickle answered “No” to Background Question No. 1A regarding misdemeanors and “Yes” to Background Question No. 1B regarding felonies on her Application.

6. Mickle attached documentation to her Application that showed the following felony conviction: On November 1, 2004, Mickle pled guilty to armed robbery, a felony, in violation of § 16-11-330(A), South Carolina Code of Laws.<sup>1</sup> *State of South Carolina v. Erica Mickle*, Richland Co. Ct. of General Sessions, Case No. H380684. The court sentenced Mickle to a five-year sentence, with execution of sentence suspended, and three years of probation. *Id.*

7. Mickle did not reveal on her Application the following misdemeanor convictions:

On January 29, 2010, Mickle pled guilty to possession of a controlled substance, a misdemeanor, in violation of § 44-53-370(d)(2), South Carolina Code of Laws. *State of South Carolina v. Erica Nichole Mickle*, Richland Co. Ct. of General Sessions, Case No. M235028. The court sentenced her to either 60 days in the county detention center or a \$200.00 fine. *Id.*

On January 25, 2011, Mickle pled guilty to shoplifting, a misdemeanor, in violation of § 16-13-110(A), South Carolina Code of Laws. *State of South Carolina v. Erica Mickle*, Dentsville Magistrate Ct., Case No. 84311EZ. The court sentenced Mickle to a fine. *Id.*

8. It is inferable, and hereby found as fact, that Mickle failed to disclose her convictions for two misdemeanors, possession of a controlled substance and shoplifting, in the hopes that the Director would view her Application more favorably and issue a license to her.

9. On November 19, 2019, Special Investigator Karen Crutchfield (“Crutchfield”), with the Department’s Consumer Affairs Division (“Division”), sent an inquiry letter via first class mail to Mickle at her residential and mailing address of record. Crutchfield noted that

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<sup>1</sup> All criminal statutory citations are to that version of the laws of South Carolina in effect at the time of the commission of the crime.

Mickle failed to disclose her misdemeanor convictions for shoplifting and possession of a controlled substance, and she asked Mickle to provide an explanation for the failure to disclose and to provide certified documentation for those convictions. Crutchfield indicated that Mickle's response was due in twenty days, and that a failure to respond could be a violation of the law and a ground for license discipline.

10. The November 19, 2019 inquiry letter was not returned to the Division as undeliverable so it is presumed that Mickle received it.
11. Mickle did not respond to the Division's November 19, 2019 inquiry letter and she did not demonstrate reasonable justification for any delay.
12. On December 13, 2019, Crutchfield sent a second inquiry letter via first class mail to Mickle at her residential and mailing address and at her business address of record. This second inquiry letter again asked Mickle to provide an explanation for the failure to disclose her misdemeanor convictions and to provide certified documentation for those convictions. Crutchfield again indicated that Mickle's response was due in twenty days, and that a failure to respond could be a violation of the law and a ground for license discipline.
13. The December 13, 2019 inquiry letter sent to Mickle's residential and mailing address and her business address of record were not returned to the Division as undeliverable so it is presumed that Mickle received them.
14. Mickle did not respond to the Division's December 13, 2019 inquiry letter and she did not demonstrate reasonable justification for any delay.
15. On January 7, 2020, the Division sent a third inquiry letter to Mickle at her mailing and residential address and at her business address of record, via both first class and certified mail. The January 7, 2020 inquiry letter again asked Mickle for an explanation for the failure to disclose her misdemeanor convictions and to provide certified documentation for those convictions. Crutchfield indicated that Mickle's response was due in twenty days, and that a failure to respond could be a violation of the law and a ground for license discipline.
16. The January 7, 2020 inquiry letter sent to Mickle's residential and mailing address of record via certified mail was returned to the Division as undeliverable, and while the Division received the green card back from the January 7, 2020 inquiry letter sent to Mickle's business address of record, the signature was illegible. But the January 7, 2020 inquiry letters sent to Mickle's residential and mailing address and to her business address of record via first class mail were not returned to the Division as undeliverable, so it is presumed that Mickle received them.

17. Mickle did not respond to the January 7, 2020 inquiry letter and she did not demonstrate reasonable justification for any delay.

### CONCLUSIONS OF LAW

18. Section 375.141.1, RSMo 2016,<sup>2</sup> provides:

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; [or]

\* \* \*

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

19. 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 shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

20. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).

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<sup>2</sup> This and all further civil statutory references are to RSMo 2016 unless otherwise indicated.

21. The Director may refuse to issue a non-resident insurance producer license to Mickle under § 375.141.1(1) because Mickle intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application, in that Mickle failed to disclose on her Application her misdemeanor convictions for shoplifting and possession of a controlled substance. *State of South Carolina v. Erica Nichole Mickle*, Richland Co. Ct. of General Sessions, Case No. M235028; *State of South Carolina v. Erica Mickle*, Dentsville Magistrate Ct., Case No. 84311EZ.
22. The Director may refuse to issue a non-resident insurance producer license to Mickle under § 375.141.1(2) because Mickle violated a regulation of the Director, 20 CSR 100-4.100(2)(A), in that Mickle failed to respond to three inquiry letters from November 19, 2019, December 13, 2019, and January 7, 2020, and did not provide reasonable justification for any delay.
23. The Director may refuse to issue a non-resident insurance producer license to Mickle under § 375.141.1(3) because Mickle attempted to obtain a license through material misrepresentation or fraud, in that Mickle failed to disclose on her Application her convictions for shoplifting and possession of a controlled substance. *State of South Carolina v. Erica Nichole Mickle*, Richland Co. Ct. of General Sessions, Case No. M235028; *State of South Carolina v. Erica Mickle*, Dentsville Magistrate Ct., Case No. 84311EZ.
24. The Director may refuse to issue a non-resident insurance producer license to Mickle under § 375.141.1(6) because Mickle has been convicted of a felony: robbery. *State of South Carolina v. Erica Mickle*, Richland Co. Ct. of General Sessions, Case No. H380684.
25. The Director may refuse to issue a non-resident insurance producer license to Mickle under § 375.141.1(6) because Mickle has been convicted of a crime involving moral turpitude. "Courts invariably find moral turpitude in the violation of narcotic laws," *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985), and Mickle has been convicted of misdemeanor possession of marijuana. *See also State Board of Nursing v. Rawlings*, No. 09-0282 BN (Mo. Admin. Hrg. Comm'n Oct. 7, 2009) (possession of marijuana is a crime of moral turpitude). Mickle has also been convicted of armed robbery and stealing, both of which involve moral turpitude. *Ide v. Dep't of Ins., Fin. Insts. and Prof'l Reg'n*, No. 12-0105 DI (Mo. Admin. Hrg. Comm'n April 2, 2012) (robbery is a crime of moral turpitude); *State Bd. of Nursing v. Blaine*, No. 08-2134 BN (Mo. Admin. Hrg. Comm'n September 18, 2009) (stealing is a crime of moral turpitude).
26. Each conviction of a felony or crime involving moral turpitude constitutes a separate and sufficient ground for the Director to refuse to issue a non-resident insurance producer license to Mickle under § 375.141.1(6).


- 27. The Director has considered Mickle’s history and all of the circumstances surrounding Mickle’s Application. Issuing an insurance producer license to Mickle would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue Mickle a non-resident insurance producer license.
- 28. This Order is in the public interest.

**ORDER**

**IT IS THEREFORE ORDERED** that the insurance producer license Application of Erica Nichole Mickle is hereby **REFUSED**.

SO ORDERED. WITNESS MY HAND THIS 23<sup>rd</sup> DAY OF December, 2020.



  
**CHLORA LINDLEY-MYERS**  
**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.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of December 2020, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by United Parcel Service, with signature required, at the following addresses:

Erica Nichole Mickle  
1621 Longwater Street  
Columbia, South Carolina 29203

Tracking No. 1Z0R15W8A899717868



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