



State of Missouri

**DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

IN RE:

SHANELLE M. FRANCIS,

Applicant.

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Case No. 170124111C

ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On February 7, 2018 the Consumer Affairs Division, through counsel, submitted a Petition to the Director alleging cause for refusing to issue a non-resident insurance producer license to Shanelle M. Francis. 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. Shanelle M. Francis (“Francis”) is a Kentucky resident with a residential address of 526 B South Wooldridge Road Hopkinsville, Kentucky 42240 and a mailing address of 4000 Fort Campbell Boulevard Suite D Hopkinsville, Kentucky 42240.
2. On October 29, 2015, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Francis’s non-resident insurance producer license application (“2015 Application”).
3. On August 5, 2016, the Director of the Department issued an Order Refusing to Issue An Insurance Producer License to Shanelle M. Francis. *In re: Shanelle M. Francis*, DIFP Case No. 160303133C. The Director found that grounds existed to refuse to issue Francis a license pursuant to § 375.141.1(1), (2), (3), and (6) as follows:
 - a. Section 375.141.1(1) because Francis intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when she did not provide information regarding her four (4) felony convictions in Case No. 97-CR-00315 on her 2015 Application. *See Commonwealth of Kentucky v. Shanelle M. Francis*, Christian Co. Cir. Ct., Case No. 97-CR-00315.
 - b. Section 375.141.1(2) because she did not respond to two (2) inquiries from the Division or provide a reasonable justification for the delay, and because she failed

to provide an adequate response, as defined in 20 CSR 100-4.010, to an inquiry from the Division, thereby violating 20 CSR 100-4.100(2)(A), a regulation of the Director.

- c. Section 375.141.1(3) because Francis attempted to obtain a license through material misrepresentation or fraud when she did not provide information regarding her four (4) felony convictions on her 2015 Application. *See Commonwealth of Kentucky v. Shanelle M. Francis*, Christian Co. Cir. Ct., Case No. 97-CR-00315.
 - d. Section 375.141.1(6) because she has been convicted of four (4) felony counts of Obtaining a Controlled Substance by Fraud, First Degree, which are also crimes involving moral turpitude. *Id.*
 - e. Section 375.141.1(6) because she has been convicted of three (3) misdemeanors which are crimes involving moral turpitude.
4. On November 8, 2016, the Department of Insurance, Financial Institutions and Professional Registration (“Department”) received Francis’s non-resident insurance producer license application (“2016 Application”).
 5. The “Attestation” section of the 2016 Application states, in relevant part:
 1. 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.
 6. Francis accepted the “Attestation” section of the 2016 Application.
 7. Background Question No. 1A of the 2016 Application asks the following, in relevant part:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?
 8. Francis answered “Yes” in response to Background Question No. 1A on her 2016 Application and provided a letter and court documents related to the following misdemeanor convictions:

- a. On January 5, 1998, Francis was convicted of Theft by Unlawful Taking, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.030.¹ *Commonwealth of Kentucky v. Shanelle Marie Francis*, Christian Co. Dist. Ct., Case No. 98-M-00045.
 - b. On February 20, 1998, Francis was convicted of Theft by Deception, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.040. *Commonwealth of Kentucky v. Shanelle Marie Francis*, Christian Co. Dist. Ct., Case No. 98-M-00389.
 - c. On February 20, 1998, Francis was convicted of Theft by Deception, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.040, and Receiving Stolen Property, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.110. *Commonwealth of Kentucky v. Shanelle Marie Francis*, Christian Co. Dist. Ct., Case No. 98-M-00395.
9. Background Question No. 1B of the 2016 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?
10. Francis answered “Yes” in response to Background Question No. 1B on her 2016 Application and provided court records related to the following felony convictions:
- a. On November 26, 1997, Francis was convicted of four (4) counts of Obtaining a Controlled Substance by Fraud, First Degree, a Felony, in violation of Ky. Rev. Stat. § 218A.140(1)(a). *Commonwealth of Kentucky v. Shanelle M. Francis*, Christian Co. Cir. Ct., Case No. 97-CR-00315. The court suspended execution of a five (5) year sentence of incarceration and placed Francis on supervised probation for five (5) years. *Id.*
11. Background Question No. 1B1 of the 2016 Application asks the following, in relevant part:
- If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?
12. Francis answered “N/A” in response to background Question No. 1B1 on her 2016 Application.

¹ All references to the Kentucky Revised Statutes are to the criminal statutes in effect at the time the court rendered judgement.

13. Francis's answer in response to Background Question 1B1 on her 2016 Application indicates that she has not obtained the written consent of an insurance regulatory official authorized to regulate Francis's insurance producer license which specifically refers to 18 U.S.C. § 1033, as required by 18 U.S.C. § 1033(e)(2).
14. On November 18, 2016, a Special Investigator for the Division sent an inquiry letter to Francis's mailing address listed on her 2016 Application. Said inquiry letter requested certified court documents related to Francis's felony conviction. In addition, the Division's inquiry letter requested specific information regarding the circumstances related to Francis's conviction for Receiving Stolen Property in *Commonwealth of Kentucky v. Shanelle Marie Francis*, Christian Co. Dist. Ct., Case No. 98-M-00395, and Francis's response to Background Question 1B1 on her 2016 Application regarding consent to engage in the business of insurance in her home state as required by 18 U.S.C. § 1033. The Division's inquiry letter requested a response within twenty (20) days pursuant to 20 CSR 100-4.100(2)(A) and warned that Francis's failure to respond could result in the refusal of her license application.
15. The United States Postal Service did not return the November 18, 2016 inquiry letter to the Division, and therefore it is presumed received by Francis.
16. Francis did not provide a written response to the Division's November 18, 2016 inquiry letter and failed to demonstrate a reasonable justification for the delay.
17. On December 14, 2016, a Special Investigator for the Division sent inquiry letters to Francis at the residential, mailing, and email addresses listed on Francis's 2016 Application. Said inquiry letters sought the same information as the previous inquiry letter, requested a response within twenty (20) days pursuant to 20 CSR 100-4.100(2)(A), and warned that Francis's failure to respond could result in the refusal of her license application.
18. The United States Postal Service did not return either of the December 14, 2016 inquiry letters to the Division, and therefore they are both presumed received by Francis.
19. Francis did not provide a written response to the Division's December 14, 2016 inquiry letters and failed to demonstrate a reasonable justification for the delay.

CONCLUSIONS OF LAW

20. Section 375.141 RSMo (2016)² provides, in relevant 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:

² All civil statutory references are to the RSMo (2016) unless otherwise indicated.

(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[.]

21. 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.

22. "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 citation omitted).

23. Moral turpitude is:

[A]n 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 Theft has been held to involve moral turpitude.

Michael S. Ide v. Dir. of Dep't of Ins., Fin. Inst. & Prof'l Reg'n, Mo. Admin. Hrg. Comm., Case No. 12-0105 DI (Apr. 2, 2012), quoting *Brehe v. Mo. Dep't of Elem. & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007), citing *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985).

24. The Director may refuse to issue a non-resident insurance producer license to Francis pursuant to § 375.141.1(1) because she intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application when she did not provide information regarding her four (4) felony convictions in Case No. 97-CR-00315 in response to Background Question No. 1B on her 2015 Application. *See Commonwealth of Kentucky v. Shanelle M. Francis*, Christian Co. Cir. Ct., Case No. 97-CR-00315.
25. The Director may refuse to issue a non-resident insurance producer license to Francis pursuant to § 375.141.1(2) because, in relation to her 2016 Application, she did not respond to two (2) inquiries from the Division or provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A)
26. Each failure to provide a response or failure to provide a reasonable justification for the delays, in violation of a regulation of the Director, is a separate and sufficient cause for refusal pursuant to § 375.141.1(2).
27. The Director may refuse to issue a non-resident insurance producer license to Francis pursuant to § 375.141.1(3) because Francis attempted to obtain a license through material misrepresentation or fraud when she did not provide information regarding her four (4) felony convictions in response to Background Question No. 1B on her 2015 Application. *See Commonwealth of Kentucky v. Shanelle M. Francis*, Christian Co. Cir. Ct., Case No. 97-CR-00315.
28. The Director may refuse to issue a non-resident insurance producer license to Francis pursuant to § 375.141.1(6) because she has been convicted of four (4) felonies. *Id.*
29. The Director may refuse to issue a non-resident insurance producer license to Francis pursuant to § 375.141.1(6) because she has been convicted of four (4) felony counts of Obtaining a Controlled Substance by Fraud, First Degree, which are also crimes involving moral turpitude. *Id.*
30. The Director may refuse to issue a non-resident insurance producer license to Francis pursuant to § 375.141.1(6) because she has been convicted of three (3) misdemeanors which are crimes involving moral turpitude:
 - a. Theft by Unlawful Taking, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.030. *Commonwealth of Kentucky v. Shanelle Marie Francis*, Christian Co. Dist. Ct., Case No. 98-M-00045.
 - b. Theft by Deception, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.040. *Commonwealth of Kentucky v. Shanelle Marie Francis*, Christian Co. Dist. Ct., Case No. 98-M-00389.
 - c. Theft by Deception, a Misdemeanor, in violation of Ky. Rev. Stat. § 514.040.

Commonwealth of Kentucky v. Shanelle Marie Francis, Christian Co. Dist. Ct.,
Case No. 98-M-00395.

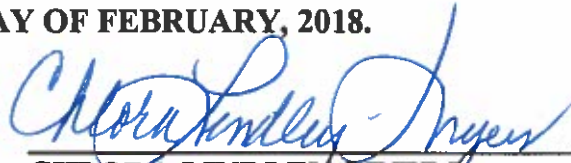
31. Each conviction for a felony or crime involving moral turpitude is a separate and sufficient cause for refusal pursuant to § 375.141.1(6).
32. The Director has considered Francis's history and all of the circumstances surrounding Francis's Application. Issuing Francis individual non-resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue an individual non-resident insurance producer license to Francis.
33. This Order is in the public's interest.

ORDER

IT IS THEREFORE ORDERED that the individual non-resident insurance producer license application of **Shanelle M. Francis** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 22nd DAY OF FEBRUARY, 2018.


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 February 23, 2018, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following addresses:

Shanelle M. Francis
526 B South Wooldridge Road
Hopkinsville, Kentucky 42240

Tracking No. 1Z0R15W8A898376505

Shanelle M. Francis
4000 Fort Campbell Boulevard
Suite D
Hopkinsville, Kentucky 42240

Tracking No. 1Z0R15W84296164112



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