



DEPARTMENT OF COMMERCE AND INSURANCE

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

IN RE:

AGNES D. CLARK,

Applicant.

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Case No. 1908300949C

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

CHLORA LINDLEY-MYERS, Director of the Missouri Department of Commerce and Insurance (the "Department"), takes up the above matter for consideration and disposition. 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. Agnes Clark ("Clark") is a Missouri resident with a mailing address of 7804 E. 99th Street, Kansas City, MO 64134.
2. On October 4, 2018, the Department of Insurance, Financial Institutions, and Professional Registration ("DIFP")¹ received Clark's individual resident insurance producer license application ("Application").
3. Background Question 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?

* * *

¹ The Department of Insurance, Financial Institutions and Professional Registration is the predecessor agency of the Department of Commerce and Insurance. See Executive Order 19-02.

If you answer yes to any of these questions, you must attach to this application: a) a written statement explaining the circumstances of each incident, b) a copy of the charging document, c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

4. Clark answered "Yes" to Background Question 1B and attached some documents for *State of Kansas v. Agnes D. Clark*, Case No. 04-CR-1084, in which on October 7, 2004, she was convicted of (1) Possession with Intent to Sell, a Level 3D Felony, in violation of Kan. Stat. Ann. § 65-4161(a) (2001), (2) Possession with Intent to Sell, a Level 3D Felony, in violation of Kan. Stat. Ann. §65-4161(a) (2001), and (3) Possession of Drug Paraphernalia, a Level 4 Felony, in violation of Kan. Stat. Ann. § 65-4152(a)(3) (2001).
5. As a condition of submission, Clark accepted the Applicant's Certification and Attestation section of the Application which stated, in relevant part:

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. An investigation conducted by the Consumer Affairs Division ("Division") of DIFP revealed that in addition to the felonies disclosed in her Application, Clark has been convicted of another felony. On December 16, 2011, Clark was convicted of Forgery, a Level 8 Felony, in violation of Kan. Stat. Ann. § 21-5823 (2011). *State of Kansas v. Agnes Dorothea Clark*, Shawnee County Dist. Ct., Case No. 11-CR-2016.
7. On December 3, 2018, December 27, 2018 and June 26, 2109, Special Investigator Dennis Fitzpatrick ("Fitzpatrick") with the Division sent an inquiry letter to Clark requesting a statement from Clark explaining the circumstances of the above-stated felony convictions and to provide certified copies of court records, indictment or information, judgment and sentence, as well as the status of her probation, if applicable. Additionally, the inquiry letters requested that she complete a "1033 Waiver" as required by 18 U.S.C. §1033. The inquiry letters were mailed to the address provided by Clark in the Application.
8. The United States Postal Service did not return to the Division the December 3, 2019 inquiry letter, the December 27, 2018 inquiry letter, nor the June 26, 2019 inquiry letter, and therefore they are presumed received by Clark.
9. In a letter dated July 6, 2019, Clark responded to the Division's inquiry letters by providing a statement explaining the circumstances surrounding her felony convictions, but failed to include a "1033 Waiver" or any of the requested documentation for the felony convictions.

10. It is inferable and hereby found as fact that Clark failed to disclose her forgery felony conviction, *State of Kansas v. Agnes Dorothea Clark*, Case No. 11-CR-2016, in the Application in order to misrepresent to the Director that she was without that felony conviction and increase the chance that the Director would exercise her discretion to issue her a resident insurance producer license.

CONCLUSIONS OF LAW

11. Section 375.141.1, RSMo (2016),² states, in relevant 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:

- (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; [or]

* * *

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

12. Section 374.210.1, states, in relevant part:

It is unlawful for any person in any investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, or chapters 375, to 385, to:

- (1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter, chapter 354 and chapters 375 to 385.

13. “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. E.D. 2000).
14. The Director may refuse to issue Clark an insurance producer license under § 375.141.1(1) because she intentionally provided materially incorrect, misleading, incomplete or untrue

² All civil statutory references are to the Revised Statutes of Missouri (2016) unless otherwise indicated.

information on her Application when she failed to disclose that she had been convicted of Forgery, a Level 8 Felony, in violation of Kan. Stat. Ann. § 21-5823 (2011). *State of Kansas v. Agnes Dorothea Clark*, Shawnee County Dist. Ct., Case No. 11-CR-2016.

15. The Director may refuse to issue Clark an insurance producer license under § 375.141.1(2) because she violated an insurance law, specifically § 374.210.1(1), by knowingly making or causing to be made a false statement in any record that is submitted to the director when she failed to disclose on the Application that she had been convicted of Forgery, a Level 8 Felony, in violation of Kan. Stat. Ann. § 21-5823 (2011). *State of Kansas v. Agnes Dorothea Clark*, Shawnee County Dist. Ct., Case No. 11-CR-2016.
16. The Director may refuse to issue Clark an insurance producer license under § 375.141.1(6) because she has been convicted of four felonies. On October 7, 2004, Clark was convicted of (1) Possession with Intent to Sell, a Level 3D Felony, in violation of Kan. Stat. Ann. § 65-4161(a) (2001), (2) Possession with Intent to Sell, a Level 3D Felony, in violation of Kan. Stat. Ann. § 65-4161(a) (2001), and (3) Possession of Drug Paraphernalia, a Level 4 Felony, in violation of Kan. Stat. Ann. § 65-4152(a)(3) (2001). *State of Kansas v. Agnes D. Clark*, Shawnee County Dist. Ct. Case No. 04-CR-1084. On December 16, 2011, Clark was convicted of Forgery, a Level 8 Felony, in violation of Kan. Stat. Ann. § 21-5823 (2011). *State of Kansas v. Agnes Dorothea Clark*, Shawnee County Dist. Ct., Case No. 11-CR-2016.
17. The Director has considered Clark's history and all the circumstances surrounding Clark's Application.
18. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Resident Insurance Producer License Application for **Agnes D. Clark** is hereby refused.

SO ORDERED.

WITNESS MY HAND THIS 19th DAY OF February, 2020.



Chlora Lindley Myers

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 21st day of February, 2020, a copy of the foregoing Order and Notice was served upon the applicant in this matter by UPS, signature required service, at the following address:

Agnes Clark
7804 E. 99th Street
Kansas City, MO 64134

No. 1Z0R15W84292754572



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