



State of Missouri
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION

IN RE:)
)
CARLA JEAN RHOADS,) **Case No. 170721329C**
)
Applicant.)

ORDER REFUSING TO ISSUE
RESIDENT INSURANCE PRODUCER LICENSE

On January 2, 2018, the Consumer Affairs Division, ("Division") through counsel, submitted a Petition to the Director alleging cause for refusing to issue a resident insurance producer license to Carla Jean Rhoads. After reviewing the Petition, the Investigative Report, and relevant documents, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Carla Jean Rhoads ("Rhoads") is a Missouri resident with a residential, business, and mailing address of 31941 Highway 32 E, Lebanon, Missouri 65536.
2. On May 19, 2017, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Rhoads's completed application for a nonresident insurance producer license ("Application").
3. Rhoads accepted the Attestation section on the Application that 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.
4. Background Question No. 1 of the Application asks, in relevant part:
 - 1A. 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)[.]

1B. 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. Rhoads answered “No” in response to Background Question No. 1A and “Yes” to Background Question 1B.

6. With her Application, Rhoads disclosed the following felony convictions:

- a. On June 28, 2006, Rhoads pled guilty to, and was convicted of, Possession of a Controlled Substance Except 35 Grams Or Less of Marijuana, a Class C Felony, in violation of § 195.202 RSMo.¹ The court sentenced Rhoads to five (5) years’ incarceration, but suspended execution of the sentence and placed Rhoads on five (5) years’ supervised probation. Rhoads successfully completed her probation on June 20, 2011. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 26R030501267.²
- b. On April 28, 2014, Rhoads pled guilty to, and was convicted of, two (2) counts of Possession With Intent to Distribute a Controlled Substance, Class B Felonies, in violation of § 195.211 RSMo. On both counts, the court sentenced Rhoads to 120 days’ inpatient drug treatment through the Missouri Department of Corrections and ten (10) years’ incarceration for each count, but suspended execution of sentence of incarceration, and placed Rhoads on five (5) years’ supervised probation. Rhoads was granted an early release from probation on March 21, 2017. *State v. Carla J. Rhoads*, Laclede Co. Cir. Ct., Case No. 12LA-CR00509-01; *State v. Carla J. Rhoads*, Laclede Co. Cir. Ct., Case No. 12LA-CR01616-01.

¹ All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri under which the court rendered judgment.

² Court records also use the case number CR305-1267FX.

7. Rhoads failed to disclose on her Application the following felony conviction:
 - a. On June 28, 2006, Rhoads pled guilty to, and was convicted of, Driving While Suspended, a Class D Felony, in violation of § 302.321 RSMo. The court sentenced Rhoads to three (3) years' incarceration, but suspended execution of the sentence and placed Rhoads on five (5) years' supervised probation. Rhoads successfully completed her probation on June 16, 2011. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 05LA-CR00099-01.

8. Rhoads failed to disclose on her Application the following misdemeanor conviction:
 - a. On July 19, 1999, Rhoads pled guilty to, and was convicted of, Passing Bad Check – Under \$150.00, a Class A Misdemeanor, in violation of § 570.120 RSMo. The court ordered Rhoads to pay a fine of \$25.00. *State v. Carla J. Rhoads*, Dallas Co. Cir. Ct., Case No. 30R049900381.³

9. During her investigation, Angie Gross, an investigator in the Consumer Affairs Division (“Division”), discovered Rhoads’s non-disclosed conviction of the Class D Felony of Driving While Suspended and the non-disclosed conviction of the Class A Misdemeanor Passing Bad Check. On May 26, 2017, Investigator Gross sent Rhoads an inquiry letter asking, *inter alia*, for Rhoads to provide a statement “explaining the circumstances surrounding each incident and why you failed to disclose the charges on your application.” The inquiry letter noted that “[p]ursuant to 20 CSR 100-4.100(2)(A), your response is due in twenty days. Failure to respond could result in disciplinary action by this Department.”

10. In her letter received by the Division on June 5, 2017, Rhoads provided statements regarding her disclosed and non-disclosed convictions. As to why she failed to disclose the two convictions, Rhoads explained that she misread or misunderstood the Application.

11. In her inquiry letter, Investigator Gross also asked Rhoads to provide a certified copy “of court records, indictment or information, complaint, judgment and sentence, with status of probation or other charging document in each criminal matter.” With her letter, Rhoads provided to the Division certified copies of court records from the following cases:
 - a. Driving While Suspended, a Class D Felony, in violation of § 302.321 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 05LA-CR00099-01;
 - b. Passing Bad Check – Under \$150.00, a Class A Misdemeanor, in violation of § 570.120 RSMo. *State v. Carla J. Rhoads*, Dallas Co. Cir. Ct., Case No. 30R049900381;

³ Court records also use the case number CR499-381M.

- c. Possession of a Controlled Substance Except 35 Grams Or Less of Marijuana, a Class C Felony, in violation of § 195.202 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 26R030501267;
- d. Class B Felony of Possession With Intent To Distribute a Controlled Substance, in violation of § 195.211 RSMo. *State v. Carla J. Rhoads*, Laclede Co. Cir. Ct., Case No. 12LA-CR00509-01; and
- e. Class B Felony of Possession With Intent To Distribute a Controlled Substance, in violation of § 195.211 RSMo. *State v. Carla J. Rhoads*, Laclede Co. Cir. Ct., Case No. 12LA-CR01616-01.

12. Subsequent to the inquiry letter, the Department discovered another misdemeanor conviction Rhoads failed to disclose on her Application and for which she failed to provide court records in response to the Division's inquiry letter:

- a. On February 14, 2005, Rhoads pled guilty to, and was convicted of, Trespassing in the First Degree, a Class B Misdemeanor, in violation of § 569.140 RSMo. the court ordered Rhoads, *inter alia*, to pay court costs and a fine of \$500.00. After Rhoads failed to pay the court costs and fine, the court issued a Warrant for Arrest against Rhoads. On July 11, 2005, the court converted Rhoads's sentence of a fine to five (5) days in jail. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., No. 26R030500027.⁴

13. It is inferable, and hereby found as fact, that Rhoads attempted to obtain a resident insurance producer license through material misrepresentation or fraud or intentionally provided materially incorrect, misleading, incomplete or untrue information regarding her criminal history in order to minimize her criminal past and induce the Director to issue her a license. This inference is further supported by the fact that despite the opportunity for her to provide court records for each criminal matter, Rhoads still did not disclose her complete criminal history in that she failed to provide the records for her conviction of the Class B Misdemeanor of Trespassing in the First Degree.

⁴ Court records also use the case number CR0305-27M.

CONCLUSIONS OF LAW

14. Section 375.141 RSMo (Supp. 2013)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:

(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 another 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[.]

15. 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.

16. The Director may refuse to issue a resident insurance producer license to Rhoads pursuant to § 375.141.1(1) because Rhoads intentionally provided materially incorrect, misleading, incomplete or untrue information on her Application when she failed to disclose the following felony:

a. Driving While Suspended, a Class D Felony, in violation of § 302.321 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 05LA-CR00099-01.

17. The Director may refuse to issue a resident insurance producer license to Rhoads pursuant to § 375.141.1(1) because Rhoads intentionally provided materially incorrect, misleading, incomplete or untrue information on her Application when she marked "No" to

⁵ All civil statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

Background Question No. 1B and failed to disclose the following misdemeanors:

- a. Passing Bad Check – Under \$150.00, a Class A Misdemeanor, in violation of § 570.120 RSMo. *State v. Carla J. Rhoads*, Dallas Co. Cir. Ct., Case No. 30R049900381; and
- b. Trespassing in the First Degree, a Class B Misdemeanor, in violation of § 569.140 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., No. 26R030500027.

18. Each instance Rhoads intentionally provided materially incorrect, misleading, incomplete or untrue information is a separate and sufficient cause for refusal pursuant to § 375.141.1(1).

19. The Director may refuse to issue a resident insurance producer license to Rhoads pursuant to § 375.141.1(2) because Rhoads failed to adequately respond to an inquiry letter from the Division when she failed to provide certified copies of court records “in each criminal matter[,]” namely, her conviction for the Class B Misdemeanor Trespassing in the First Degree, thereby violating 20 CSR 100-4.100(2)(A), a Department regulation.

20. The Director may refuse to issue a resident insurance producer license to Rhoads pursuant to § 375.141.1(3) because Rhoads attempted to obtain a license through material misrepresentation or fraud when she failed to disclose the following convictions:

- a. Driving While Suspended, a Class D Felony, in violation of § 302.321 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 05LA-CR00099-01;
- b. Passing Bad Check – Under \$150.00, a Class A Misdemeanor, in violation of § 570.120 RSMo. *State v. Carla J. Rhoads*, Dallas Co. Cir. Ct., Case No. 30R049900381; and
- c. Trespassing in the First Degree, a Class B Misdemeanor, in violation of § 569.140 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., No. 26R030500027.

21. Each instance Rhoads failed to disclose a conviction is a material misrepresentation or fraud to obtain a license and, therefore, is a separate and sufficient cause for refusal under § 375.141.1(3).

22. The Director may refuse to issue a resident insurance producer license to Rhoads pursuant to § 374.141.1(6) because Rhoads has been convicted of four (4) felonies:

- a. Possession of a Controlled Substance Except 35 Grams Or Less of Marijuana, a Class C Felony, in violation of § 195.202 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 26R030501267;

- b. Driving While Suspended, a Class D Felony, in violation of § 302.321 RSMo. *State v. Carla Jean Rhoads*, Laclede Co. Cir. Ct., Case No. 05LA-CR00099-01; and
- c. Two (2) Class B Felonies of Possession With Intent To Distribute A Controlled Substance, in violation of § 195.211 RSMo. *State v. Carla J. Rhoads*, Laclede Co. Cir. Ct., Case No. 12LA-CR00509-01; *State v. Carla J. Rhoads*, Laclede Co. Cir. Ct., Case No. 12LA-CR01616-01.

23. The Director has considered Rhoads's history and all of the circumstances surrounding her Application. Issuing a resident insurance producer license to Rhoads would not be in the public interest. Accordingly, the Director exercises her discretion to refuse to issue Rhoads a resident insurance producer license.

24. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the resident insurance producer license Application of **Carla Jean Rhoads** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 09th DAY OF January, 2018.



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 10th day of January, 2018, 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 address:

Carla Jean Rhoads
31941 Highway 32 E
Lebanon, MO 65536

Tracking No. 1Z0R15W84299295092



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