

State of Missouri

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

IN RE:)
)
KIMBERLEY RANAE BURGESS,) **Case No. 170123108C**
)
Applicant.)

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On July 24, 2017, the Consumer Affairs Division submitted a Petition to the Director ("Director") alleging cause for refusing to issue an insurance producer license to Kimberley Ranae Burgess. 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. Kimberley Ranae Burgess ("Burgess") is a Missouri resident with a residential and mailing address of 12842 Private Drive 7137, Rolla, Missouri 65410 and a business address of 304 West James Boulevard, St. James, Missouri 65559.
2. On October 3, 2016, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Burgess's application for an individual resident insurance producer license ("Application").
3. On her Application, Burgess disclosed the following convictions:
 - a. On February 9, 2012, Burgess pled guilty to, and was convicted of, Identity Theft (Value \$501 - \$5,000), a Class C Felony, in violation of § 570.223, RSMo.¹ The court suspended the execution of sentence, placed Burgess on five (5) years' supervised probation, and ordered *inter alia*, five (5) days' shock incarceration, community service, and restitution. Burgess unsuccessfully completed her probation on or about January 1, 2015. *State v. Kimberly Burgess*, Phelps Co. Cir. Ct., Case No. 11PH-CR02114-01.²
 - b. On February 9, 2012, Burgess pled guilty to, and was convicted of, Passing Bad Check – Less Than \$500, a Class A Misdemeanor, in violation of § 570.120 RSMo. The court suspended the execution of sentence, and placed

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 Although the first name Burgess listed on her Application ("Kimberley") differs from the name used in case numbers 11PH-CR02114-01 and 11PH-CR02053-01 ("Kimberly"), the birthdate and social security number listed in those cases match those provided by Burgess on her Application.

Burgess on two (2) years' probation. On January 3, 2013, the court revoked Burgess's probation and sentenced Burgess to 60 days' incarceration. *State v. Kimberly Burgess*, Phelps Co. Cir. Ct., Case No. 11PH-CR02053-01.

4. Regarding her Felony Identity Theft Or Attempt conviction, Burgess stated, in part:

I met a lady that I thought was like a mom figure to me but it turned out that she was something very different. I was having a hard time and I wasn't able to pay all of my bills. She told me that I could get a cell phone contract in her name and that way I wouldn't be without a phone. This is what I did. I ended up losing my job and then of course the cell phone was disconnected. I told her that I would do my best to try to pay it off but that didn't happen. She filed charges on m[e] for [i]dentity theft when she went to buy a new car and they told her that this was on her credit report. She stated that because I was on anti-depressant medication all of the time that I don't remember if I had that conversation with her and that I wasn't in my right mind. This was believed and also the fact that it was done online and shipped to my residence did not help in my case. I helped her with taxes, reconciling her accounts, etc. I had every opportunity to take her information if I wanted to do that. I did not do any of those things. I realized how this looked and I pled guilty because at the time I knew nothing about the court system and they said that if I pled guilty then I could just get on probation and go home to my kids. At the time, I did not know about different types of probation or that it would stay with me forever. I just knew that I wanted to get home. I got on probation and followed what they asked me to do. I got a couple of jobs, stopped taking the meds that the psychiatrist had told me that I needed since I was 16, started attending church, and tried to attend all of the classes and pay all of the fines they asked me to pay. I was released off of probation on 1/1/2015. I was supposed to be on probation until 2017. I have regained my right to vote as well as notice that I was being released off of probation.

CONCLUSIONS OF LAW

5. Section 375.141 RSMo (Supp. 2013)³ 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:

* * *

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

³ All civil statutory references are to RSMo (2000) as updated by the 2013 Supplement unless otherwise noted.

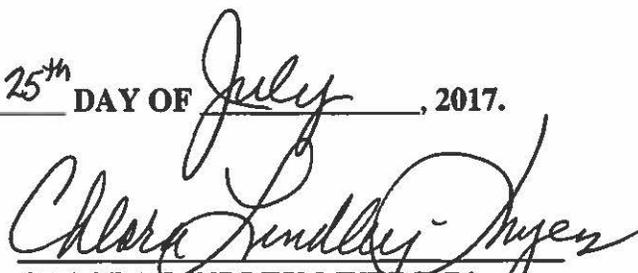
6. The Director may refuse to issue an insurance producer license to Burgess pursuant to § 375.141.1(6) because she has been convicted of one (1) felony and two (2) crimes involving moral turpitude:
 - a. Identity Theft (Value \$501 - \$5,000), a Class C Felony, in violation of § 570.223, RSMo. *State of Missouri v. Kimberly Burgess*, Phelps Co. Cir. Ct., Case No. 11PH-CR02114-01.
 - b. Passing Bad Check – Less Than \$500, a Class A Misdemeanor, in violation of § 570.120 RSMo. *State of Missouri v. Kimberly Burgess*, Phelps Co. Cir. Ct., Case No. 11PH-CR02053-01.
7. Each felony conviction or conviction of a crime involving moral turpitude is a separate and sufficient ground for refusal pursuant to § 375.141.1(6).
8. The Director has considered Burgess's history and all of the circumstances surrounding Burgess's Application, including her criminal convictions for Identity Theft and Passing Bad Check. Granting Burgess a resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to issue a resident insurance producer license to Burgess.
9. This Order is in the public interest.

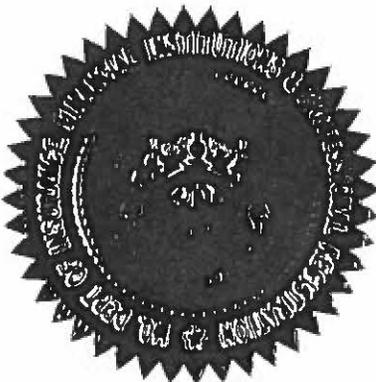
ORDER

IT IS THEREFORE ORDERED that Kimberley Ranae Burgess's application for an individual resident insurance producer license is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 25th DAY OF July, 2017.


CHLORA LINDLEY-MYERS, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration



NOTICE

To: Applicant and any unnamed persons aggrieved by this Order:

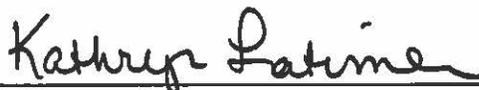
You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send 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 17th day of August, 2017, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by USPS, first class mail, at the following address:

Kimberley Ranae Burgess
12842 Private Drive 7137
Rolla, Missouri 65410



Kathryn Latimer, Paralegal
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