



FINAL ORDER
EFFECTIVE
03-05-2018

State of Missouri

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

IN RE:)
)
SHARON K. MIDGETT,) **Case No. 170703315C**
)
Renewal Applicant.)

ORDER REFUSING TO RENEW
AN INSURANCE PRODUCER LICENSE

On October 17, 2017, the Consumer Affairs Division (“Division”) submitted a Petition to the Director alleging cause for refusing to renew Sharon K. Midgett’s title insurance producer license. 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. Sharon K. Midgett (“Midgett”) is a Missouri resident with a residential and mailing address of record of 1201 Twill Ct., St. Louis, Missouri 63137.
2. The Department of Insurance, Financial Institutions and Professional Registration (“Department”) first licensed Midgett as a title insurance producer on December 9, 2004 (license number 0339826).
3. Following several renewals of the license, Midgett’s license expired on December 10, 2012.
4. On November 13, 2014, the Department entered into a Consent Order with Midgett (“Consent Order”).
5. Under the Consent Order, Midgett admitted that she violated 20 CSR 100-4.100(2)(A) when she failed to provide adequate responses to two inquiry letters from the Division, from January 31, 2012 and March 6, 2012, or demonstrate reasonable justification for delay.
6. Also under the Consent Order, Midgett admitted that she failed to appear at a June

19, 2012 subpoena conference as ordered by the Director.

7. As part of the Consent Order, the Director agreed to renew Midgett's license and ordered her license renewed subject to various conditions. Midgett renewed her license in December 2014.
8. The special condition listed in paragraph 2 of the Order portion of the Consent Order requires Midgett to "inform the Division in writing of any change to all current phone numbers, including resident and cell phone numbers[.]"
9. The special condition listed in paragraph 3 of the Order portion of the Consent Order requires Midgett to "inform the Division in writing of any change in job title or employer within five business days of the change."
10. The special condition listed in paragraph 4 of the Order portion of the Consent Order requires Midgett to "report to the Division any violation of or failure to comply with the laws and regulations set forth in Chapters 374, 375, and 381 within five business days of such violation or failure to comply."
11. The special condition listed in paragraph 5 of the Order portion of the Consent Order requires Midgett to "respond to all inquiries from the Department in accordance with 20 CSR 100-4.100(2)(A)."
12. The special conditions in the Consent Order expire "five years from the date this Consent Order is issued;" the Consent Order was fully executed and issued on November 13, 2014, so Midgett is subject to the terms of the Consent Order until November 13, 2019.
13. The Consent Order also provides that if Midgett "otherwise complies with the terms of this Consent Order, then Midgett may apply again to renew her license in 2016 and the Director shall consider the renewal application in accordance with Chapters 374 and 375 without regard to the underlying conduct outlined in this Consent Order."
14. On December 10, 2016, Midgett's title insurance producer license expired.
15. When her license expired, Midgett had not completed the continuing education hours necessary to renew her license. More particularly, Midgett was three hours short of the eight hours of continuing education required for title insurance producers. Midgett completed her eight-hour continuing education requirement when she took her last course on January 18, 2017.

16. On or about February 6, 2017, the Department received Midgett's electronic resident insurance producer license renewal application ("Renewal Application").
17. On February 15, 2017 at 10:43 a.m., Division Special Investigator Marjorie Thompson ("Thompson") sent an email to Midgett indicating that Midgett's late Renewal Application was under review. Thompson asked Midgett to explain why Midgett's renewal was late and to provide an order log detailing the transactions that Midgett had handled for her employer, Continental Title, since Midgett's insurance producer license had expired.
18. Also on February 15, 2017, at 2:32 p.m., Midgett responded to Thompson's email. Midgett indicated that she had been late to renew because she was short one hour of continuing education. Midgett explained that she thought that she had completed sufficient continuing education, but that one hour was a duplicate of continuing education that she had previously completed, so she had to take additional coursework. Midgett also indicated that she was working with her employer to provide the order log for December 10, 2016 through February 15, 2017.
19. Also on February 15, 2017, at 2:48 p.m., Thompson advised Midgett as follows:

Handling escrow, settlements or closings for the business of title insurance as defined in Section 381.031(19), RSMo (Supp. 2013) without a valid insurance license violates Section 381.115, RSMo (2013).

Until you have a valid insurance producer license you should refrain from performing any tasks for the business of title insurance requiring an insurance producer license.
20. Also on February 15, 2017, at 2:55 p.m., Midgett responded to Thompson's e-mail, indicating, "Thank you Marjorie, you are absolutely correct."
21. On February 24, 2017, John Coghlan ("Coghlan"), counsel for Continental Title, responded to Thompson's February 15, 2017 email requesting the order log for Midgett. Coghlan provided the order log for Midgett's transactions for Continental Title. Coghlan also provided a written explanation from Midgett regarding the reasons for her tardy renewal, which included a continuing education deficiency due to completing a duplicate course, press of business, and illness of an elderly parent. Finally, Coghlan indicated that Continental Title had notified Midgett several times about the renewal of her license prior to the deadline. Coghlan indicated that because of Midgett's failure to timely renew her insurance

producer license, Continental Title had terminated her employment with the company.

22. The order log that Coghlan provided on behalf of Continental Title showed that Midgett handled 119 escrows, settlements, or closings on behalf of Continental Title from December 10, 2016 through February 15, 2017.
23. On March 3, 2017, Thompson attempted to contact Midgett by phone, using Midgett's phone number of record with the Division, but when Thompson called that number, there was a message that said that the number reached is not in service.
24. On March 7, 2017, Thompson sent an inquiry letter to Midgett via first class mail, postage prepaid, to Midgett's residential and mailing address of record, 1201 Twill Court, St. Louis, Missouri 63137. In it, Thompson noted that the Department had received information that suggested that Midgett had handled numerous escrows, settlements, or closings, thereby engaging in the business of title insurance, between December 10, 2016 and February 14, 2017, without a valid insurance producer license. Thompson asked Midgett to address various issues, specifically, to 1) discuss the reasons why Continental Title terminated Midgett's employment, 2) indicate the date Midgett was terminated from Continental Title, 3) provide a current phone number, 4) provide the name and address of her new employer, 5) discuss Continental Title's notification to Midgett regarding the continuing education hours required for a timely renewal of Midgett's insurance producer license, and 6) discuss how Midgett would propose to track and timely obtain required continuing education hours in the future. Thompson noted that under 20 CSR 100-4.100, Midgett's response was required in 20 days.
25. The United States Postal Service did not return Thompson's March 7, 2017 inquiry letter to the Division as undeliverable; therefore, Midgett is presumed to have received it.
26. Midgett did not provide a written response to Thompson's March 7, 2017 inquiry letter and Midgett did not demonstrate reasonable justification for delay.
27. Again on May 9, 2017, Thompson sent another inquiry letter to Midgett via first class mail, postage prepaid, to Midgett's residential and mailing address of record. In it, Thompson again asked for the information that she had requested from Midgett in the March 7, 2017 inquiry letter. Thompson indicated again that 20 CSR 100-4.100 required Midgett to respond within 20 days.
28. The United States Postal Service did not return Thompson's May 9, 2017 inquiry

letter to the Division as undeliverable; therefore, Midgett is presumed to have received it.

29. Midgett did not provide a written response to Thompson's May 9, 2017 inquiry letter and Midgett did not demonstrate reasonable justification for delay.

CONCLUSIONS OF LAW

30. Section 374.210.2(7), RSMo Supp. 2013, provides, in relevant part, as follows:

The director may also suspend, revoke or refuse any license . . . issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

31. Section 375.141.1, RSMo Supp. 2013, provides, in 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:

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

* * *

(12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed[.]

32. Section 381.031(19), RSMo Cum. Supp. 1999,¹ provides:

¹ Missouri's Revisor of Statutes shows that § 381.031 was repealed by S.B. 894 (2000). *See, e.g.*, RSMo Cum. Supp. 2009. But the Missouri Supreme Court invalidated S.B. 894 because it violated the Missouri Constitution, *Home*

“Title insurance business” or “business of title insurance” means:

- (a) Issuing as insurer or offering to issue as insurer a title insurance policy;
- (b) Transacting or proposing to transact by a title insurer, title agency, or title agent any of the following activities when conducted or performed by a title agent, title agency, or title insurer in conjunction with the issuance of its title insurance:
 - a. Soliciting or negotiating the issuance of a title insurance policy;
 - b. Guaranteeing, warranting, or otherwise insuring the correctness of title searches;
 - c. Handling of escrows, settlements, or closings;
 - d. Execution of title insurance policies, reports, commitments, binders, and endorsements;
 - e. Effecting contracts of reinsurance; or
 - f. Abstracting, searching, or examining titles;
- (c) Transacting by a title insurer, title agent, or agency of matters subsequent to the issuance of a title insurance policy and arising out of it; or
- (d) Doing or proposing to do any business in substance equivalent to any of the foregoing in order to evade any provision of this act[.]

33. Section 381.115, RSMo Supp. 2013, provides, in part, as follows:

1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent.

2. It is unlawful for any person to transact business as:

* * *

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015 or is exempt from licensure under subsection 3 of this section.

3. A salaried employee of a title insurer, title agency, or title agent is exempt from licensure as a title agent if the employee does not

Builders of Greater St. Louis v. State of Missouri, 75 S.W.3d 267, 269 (Mo. banc 2002), so statutes like § 381.031 that the bill hoped to repeal are reinstated.

materially perform or supervise others who perform any of the following:

- (1) Sell, solicit, or negotiate a title insurance policy or closing protection letter;
- (2) Calculate premiums for a title insurance policy or closing protection letter;
- (3) Determine insurability;
- (4) Establish, calculate, or negotiate title charges;
- (5) Conduct title search or examinations;
- (6) Execute title insurance policies, commitments, binders or endorsements; or
- (7) Handle escrows, settlements, or closings.

34. Section 381.118.2, RSMo Supp. 2013, provides:

Each title agent licensed to sell title insurance in this state, unless exempt under subsection 8 of this section, shall successfully complete courses of study as required by this section. Any person licensed to act as a title agent shall, during each two years, attend courses or programs of instruction or attend seminars equivalent to a minimum of eight hours of instruction. The initial such two-year period shall begin January 1, 2008.

35. 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.

36. 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).

37. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2), because Midgett violated an insurance law, to

wit: § 381.115.1, in that Midgett transacted the business of title insurance even though she was not authorized as a title insurer, title agency or title agent. Midgett's insurance producer license expired on December 10, 2016, but between December 10, 2016 and February 15, 2017, Midgett handled 119 escrows, settlements, or closings on behalf of Continental Title.

38. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2), because Midgett violated an insurance law, to wit: § 381.115.2(2), in that Midgett transacted business as a title agent when she was not licensed as an individual insurance producer or exempt from licensure. Midgett's insurance producer license expired on December 10, 2016, but between December 10, 2016 and February 15, 2017, Midgett handled 119 escrows, settlements, or closings on behalf of Continental Title.
39. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating an insurance law, to wit: § 381.118.2, because Midgett, who was a licensed title agent, failed to timely complete eight hours' worth of courses of study related to title insurance that are required to maintain a title insurance license.
40. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating a regulation of the Director, to wit: 20 CSR 100-4.100(2)(A), because Midgett admittedly failed to adequately and timely respond to two written inquiry letters from the Division, mailed on January 31, 2012 and March 6, 2012. Further, Midgett failed to demonstrate reasonable justification for any delay.
41. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating § 374.210.2(7), an insurance law, because Midgett admittedly failed to obey a subpoena of the Director when she failed to appear for a subpoena conference scheduled for June 19, 2012.
42. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating a regulation of the Director, to wit: 20 CSR 100-4.100(2)(A), because Midgett failed to adequately and timely respond to two written inquiry letters from the Division, mailed on March 7, 2017 and May 9, 2017. Further, Midgett failed to demonstrate reasonable justification for any delay.
43. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating an order of the Director, because Midgett failed to comply with the special condition listed in paragraph 2 of the

Order portion of the Consent Order that requires her to “inform the Division in writing of any change to all current phone numbers, including resident and cell phone numbers,” in that the Division’s telephone number of record for Midgett is not in service, but Midgett has not provided another number to the Division where she may be successfully reached.

44. Midgett’s Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating an order of the Director, because Midgett failed to comply with the special condition listed in paragraph 3 of the Order portion of the Consent Order that requires her to “inform the Division in writing of any change in job title or employer within five business days of the change,” in that on February 24, 2017, Coghlan informed Thompson that Continental Title had terminated Midgett’s employment based upon her failure to renew her insurance producer license, but Midgett did not notify the Division in writing within five days of her firing (which necessarily preceded Coghlan’s February 24, 2017 email), within five days of Coghlan’s email, or at all regarding her change in employer.
45. Midgett’s Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating an order of the Director, because Midgett failed to comply with the special condition listed in paragraph 4 of the Order portion of the Consent Order that requires her to “report to the Division any violation of or failure to comply with the laws and regulations set forth in Chapters 374, 375, and 381 within five business days of such violation or failure to comply,” in that Midgett violated § 381.115.1 and .2 when she transacted the business of insurance at least 119 times when she handled 119 escrows, settlements, or closings on behalf of Continental Title between December 10, 2016 and February 15, 2017 when Midgett was not licensed as an insurance producer. Midgett did not report these 119 violations to the Division within five days or at all. Only after Thompson inquired about Midgett’s late renewal and requested an order log did Midgett request one from her employer, Continental Title, who then provided the order log showing the escrows, settlements, and closings that Midgett conducted during a time when she was not licensed as an insurance producer.
46. Midgett’s Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating an order of the Director, because Midgett failed to comply with the special condition listed in paragraph 4 of the Order portion of the Consent Order that requires her to “report to the Division any violation of or failure to comply with the laws and regulations set forth in Chapters 374, 375, and 381 within five business days of such violation or failure to comply,” in that Midgett failed to complete the necessary continuing education required under § 381.118.2 in a timely manner, and she did not report this failure

to comply with the law to the Division within five business days from December 10, 2016, when her license expired.

47. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(2) for violating an order of the Director, because Midgett failed to comply with the special condition listed in paragraph 5 of the Order portion of the Consent Order that requires her to "respond to all inquiries from the Department in accordance with 20 CSR 100-4.100(2)(A)," in that Midgett failed to adequately and timely respond to two written inquiry letters from the Division, mailed on March 7, 2017 and May 9, 2017. Further, Midgett failed to demonstrate reasonable justification for any delay.
48. Each violation of an insurance law, regulation, or order of the Director constitutes a separate and sufficient ground to refuse to renew Midgett's insurance producer license under § 375.141.1(2).
49. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(8), because Midgett used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, in that Midgett handled 119 escrows, settlements, or closings on behalf of Continental Title from December 10, 2016 to February 15, 2017 during a time when Midgett was not licensed as an insurance producer.
50. Midgett's Renewal Application for an individual insurance producer license may be refused under § 375.141.1(12), because Midgett knowingly acted as an insurance producer when not licensed, in that Midgett handled 119 escrows, settlements, or closings on behalf of Continental Title from December 10, 2016 to February 15, 2017 when Midgett was not licensed as an insurance producer. Midgett's employer, Continental Title, notified Midgett several times about the upcoming renewal deadline for her insurance producer license, and the need for continuing education credits, yet Midgett allowed the renewal deadline to pass. After the renewal deadline passed and Midgett did not renew, Midgett nonetheless continued to engage in the business of title insurance.
51. The above described instances are grounds upon which the Director may refuse to renew Midgett's individual insurance producer license. Repeatedly and consistently, Midgett has ignored this state's insurance regulator by failing to respond to Division inquiry letters and by failing to obey a subpoena. Midgett did this despite the fact that the Consent Order related to this type of behavior and specifically required her to respond in a timely way to the Division's inquiry letters in accordance with the Director's regulation. Midgett failed to obtain the

necessary continuing education credits to timely renew her license, despite the fact that her then-employer reminded her about the need to finish her credits in order to renew. Then, even though she did not timely renew, Midgett continued unabated carrying on the business of title, handling 119 escrows, closings and settlements. Obviously, Midgett views the insurance laws and regulations of this state, and orders of the Director, as mere suggestions, and not the requirements that they manifestly are.

- 52. The Director has considered Midgett's history and all of the circumstances surrounding Midgett's Renewal Application. Renewing Midgett's title insurance producer license would not be in the interest of the public. Accordingly, the Director exercises her discretion to refuse to renew Midgett's title insurance producer license.
- 53. This Order is in the public interest.

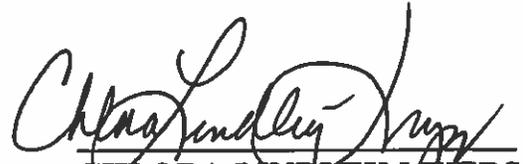
ORDER

IT IS THEREFORE ORDERED that the title insurance producer Renewal Application of **Sharon K. Midgett** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 13th DAY OF November, 2017.




CHLORA LINBLEY-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 14th day of November, 2017, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by UPS, with signature required, at the following address:

Sharon K. Midgett
1201 Twill Ct.
St. Louis, MO 63137

Tracking No. 1Z0R15W84291228213



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of December, 2017, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by USPS, certified mail, at the following address:

Sharon K. Midgett
1201 Twill Ct.
St. Louis, MO 63137

Certified No. 7016 0340 0001 1319 7876

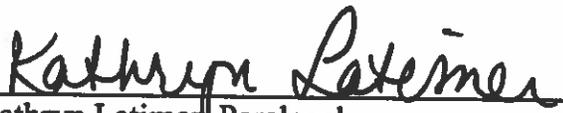


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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 2018, a copy of the foregoing Order and Notice was served upon the Renewal Applicant in this matter by USPS, first class mail, at the following address:

Sharon K. Midgett
1201 Twill Ct.
St. Louis, MO 63137


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