

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
Before the Director of Insurance and Financial Services

Ronda Clark  
Petitioner

v

Department of Insurance and Financial Services  
Respondent

Case No. 13-915-L  
Docket No. 13-000339-OFIR

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Issued and entered  
this 8<sup>th</sup> day of October 2013  
by Randall S. Gregg  
Special Deputy Director

**FINAL DECISION**

**I. BACKGROUND**

This case concerns the application of Ronda Clark (Petitioner) for a nonresident insurance producer license.

On June 22, 2012, the Petitioner, a resident of New Jersey, applied for a nonresident insurance producer license in the state of Michigan. On July 12, 2012, the Department of Insurance and Financial Services (Respondent) issued to the Petitioner a Notice of License Denial and Opportunity for Hearing. The denial was based on the Petitioner's disclosure of a criminal conviction in the state of Delaware in 1994. Petitioner challenged the license denial by filing a Petition for Contested Case Hearing. A telephone hearing was scheduled but the Petitioner did not participate, despite having been given notice of the hearing.

The administrative law judge issued a Proposal for Decision (PFD) on September 6, 2013, recommending that the license denial be upheld. The Petitioner did not file exceptions to the PFD. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. *Attorney General v Public Service Comm*, 136 Mich App 52 (1984).

**II. FINDINGS OF FACT**

The Director finds that on September 27, 1994, the Petitioner was convicted of a misdemeanor for the theft of money from her employer in the state of Delaware. This, and the other findings of fact in the PFD, are adopted and made a part of this final decision.

### III. CONCLUSIONS OF LAW

Sec. 1239(1)(h) of the Michigan Insurance Code (Code), MCL 500.1239(1)(h), provides:

(1) In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

\* \* \*

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

The conduct which resulted in her criminal conviction, stealing money from her employer, establishes that the Petitioner engaged in dishonest practices and demonstrated untrustworthiness in the conduct of business. Under section 1239(1)(h) of the Code, an individual who has engaged in such conduct must be denied an insurance producer license.

The Petitioner has not demonstrated that she meets the criteria for licensure pursuant to Section 1206a of the Code, MCL 500.1206a and was properly denied licensure as a non-resident insurance producer in the state of Michigan under Section 1239(1)(h) of the Code, MCL 500.1239(1)(h).

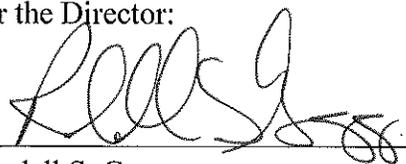
The conclusions of law in the PFD are adopted and made a part of this final decision. The PFD is attached and made a part of this Final Decision.

### IV. ORDER

The refusal to issue an insurance producer license to Ronda Clark is upheld.

R. Kevin Clinton  
Director

For the Director:

  
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Randall S. Gregg  
Special Deputy Director

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:	Docket No.:	13-000339-OFIR
Ronda Clark, Petitioner	Case No.:	13-915-L
v	Agency:	Office of Financial & Insurance Regulation
Office of Financial and Insurance Regulation, Respondent	Case Type:	OFIR/OFIS-Insurance
_____ /	Filing Type:	Sanction License Denial

Issued and entered  
this 6<sup>th</sup> day of September 2013  
by Lauren G. Van Steel  
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

This proceeding under the Michigan Insurance Code of 1956, being 1956 PA 218, as amended, MCL 500.100 *et seq.* (hereafter "Insurance Code"), commenced with the issuance of a Notice of Hearing dated March 14, 2013, scheduling a contested case hearing concerning a Notice of License Denial issued by the Office of Financial and Insurance Services (now the Department of Insurance and Financial Services), Respondent, on July 12, 2012, regarding an application for a non-resident insurance producer license submitted by Ronda C. Clark, Petitioner.

The Notice of Hearing was issued pursuant to a Request for Hearing received by the Michigan Administrative Hearing System on March 13, 2013, and an Order Referring Petition for Hearing and Order to Respond, dated March 8, 2013, issued by Annette E. Flood, Chief Deputy Commissioner. Attached to the Request for Hearing was a copy of the Applicant's Petition for Contested Case Hearing to Appeal Agency Denial of Application for Insurance Producer License, dated August 3, 2012; a copy of a letter To Whom It May Concern from Petitioner, dated June 6, 2012; and an Agency Response to Applicant's Appeal of License Denial, dated March 12, 2013. The Applicant's Petition for Contested Case Hearing document contained a request from Petitioner that the hearing be held by telephone and provided a mailing address and telephone number where Petitioner indicated she could be reached during regular business hours. The Notice of Hearing scheduled a hearing date of May 2, 2013.

On March 25, 2013, Respondent filed Respondent's Motion for Pre-Trial Hearing and Order to Respond. On March 26, 2013, the undersigned issued an Order Converting Hearing Date to Telephone Prehearing Conference, which ordered in part that "no later

than April 12, 2013, Petitioner shall file written notice of her current mailing address and a valid telephone number where she may be contacted during regular business hours and for the prehearing conference." Petitioner did not submit any filing to the Michigan Administrative Hearing System in response to this order.

On May 2, 2013, the undersigned held a telephone prehearing conference as scheduled, in which Attorney Conrad L. Tatnall appeared on behalf of Respondent. Neither Petitioner, nor an attorney on her behalf, appeared for the prehearing conference, after the undersigned made two attempts to reach her at the telephone number she had stated on the Applicant's Petition for Contested Case Hearing. The undersigned issued an Order Following Prehearing Conference on May 2, 2013, scheduling the contested case hearing for August 5, 2013.

On May 3, 2013, Respondent filed a copy of the Notice of License Denial and Opportunity for Hearing, dated July 12, 2012. On June 17, 2013, Respondent filed Respondent's Motion for Summary Decision and Brief in Support of Motion; and Respondent's Exhibits in Support of Motion for Summary Decision. On June 25, 2013, the undersigned issued an Opinion and Order Denying Respondent's Motion for Summary Decision, which ordered that the hearing would be held as scheduled on August 5, 2013. The Notice of Hearing, the Order Following Prehearing Conference and the Opinion and Order Denying Respondent's Motion for Summary Decision were mailed to Petitioner at her last known address, as provided by Petitioner on the Applicant's Petition for Contested Case Hearing.

On July 22, 2013, Respondent filed Respondent's Witness List and Respondent's Proposed Exhibits. On July 30, 2013, Respondent filed Amended Respondent's Proposed Exhibits. On July 31, 2013, Respondent filed a Certificate of Service.

On August 5, 2013, the hearing was held as scheduled. Mr. Tatnall appeared as attorney on behalf of Respondent. Neither Petitioner, nor an attorney on her behalf, appeared at the hearing, after the undersigned made two attempts to reach her at the telephone number she had earlier provided. The undersigned ruled that the hearing would proceed in Petitioner's absence pursuant to Section 72(1) of the Administrative Procedures Act (hereafter "APA"), which states:

Sec. 72. (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party. MCL 24.272(1).

Respondent offered the following exhibits that were admitted into evidence:

1. Respondent's Exhibit No. 1 is a copy of an Individual Licensee Application, dated June 22, 2012.
2. Respondent's Exhibit No. 2 is a copy of Individual Licensee Application questions.

3. Respondent's Exhibit No. 3 is a copy of a certified Disposition Record, dated May 16, 2012, in the State of Delaware, Justice of the Peace Court 11, Complaint #0694074000, plea date of September 27, 1994.
4. Respondent's Exhibit No. 4 is a copy of a letter To Whom It May Concern from Petitioner, dated June 6, 2012; and Applicant's Petition for Contested Case Hearing to Appeal Agency Denial of Application for Insurance Producer License, dated August 3, 2012.
5. Respondent's Exhibit No. 5 is a copy of a Notice of License Denial and Opportunity for Hearing, dated July 12, 2012.
6. Respondent's Exhibit No. 6 is a copy of Petitioner's e-mail message, "Subject: Appeal for Ronda C. Clark", dated August 17, 2012.
7. Respondent's Exhibit No. 7 is a copy of e-mail messages to and from regarding Petitioner's Delaware address, dated July 24-29, 2013.

Respondent's attorney requested that a default be granted against Petitioner pursuant to Section 78(2) of the APA, which states:

Sec. 78. (2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties. MCL 24.278(2). (Emphasis supplied).

In accordance with Section 78(2) of the APA, the undersigned granted a default in Respondent's favor and against Petitioner. Pursuant to the default, the allegations set forth in the Notice of License Denial, Respondent's Exhibit No. 5, were taken as true and proven. No witnesses were presented. The record was closed at the conclusion of the hearing.

#### ISSUES AND APPLICABLE LAW

The issue presented is whether Petitioner has demonstrated that she meets the criteria for licensure as a non-resident insurance producer in the state of Michigan under the Insurance Code, *supra*. Sections 1206a(1) and 1239(1)(h) of the Insurance Code provide in pertinent part:

Sec. 1206a. (1) Unless denied licensure under section 1239, a nonresident person shall receive a nonresident insurance producer license if he or she meets all of the following:

4. Petitioner was working at a retail location in the state of Delaware when she was arrested on September 27, 1994, for taking cash from the register. [Resp. Exh. 4 & 5].
5. On August 17, 2012, Petitioner sent an e-mail message to Respondent indicating that she was seeking expunction of her conviction in the state of Delaware, but to date she has not submitted evidence of an expunction having been granted. [Resp. Exh. 6].
6. On July 12, 2012, Jean M. Boven, Deputy Commissioner, issued a Notice of License Denial and Opportunity for Hearing. [Resp. Exh. 5].
7. On or about August 3, 2012, Petitioner submitted a petition for contested case hearing to appeal the Notice of License Denial. [Resp. Exh. 4].
8. On August 5, 2013, 2013, a properly noticed hearing was held, at which Petitioner failed to appear and offer evidence in support of her appeal. A default ruling was entered against Petitioner.

#### CONCLUSIONS OF LAW

Under Section 1239(1) of the Insurance Code, *supra*, the Commissioner (now Department Director) shall refuse to issue a license for a non-resident insurance producer license under Section 1206a for the cause of "[u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere." MCL 500.1239(1)(h).

A default having been granted for Respondent against Petitioner under Section 78(2) of the APA, the allegations set forth in the Notice of License Denial are taken as true and proven. Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all the alleged facts are taken as true. *Smith v Lansing School Dist.*, 428 Mich 248; 406 NW2d 825 (1987).

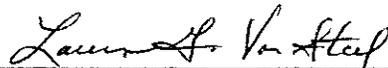
Based on the above findings of fact, it is concluded that Petitioner has not demonstrated that she meets the criteria for licensure pursuant to Section 1206a of the Insurance Code. Rather, a preponderance of record evidence shows that Petitioner is properly denied licensure as a non-resident insurance producer in the state of Michigan under Sections 1206a(1) and 1239(1)(h) of the Insurance Code. MCL 500.1206a(1) and MCL 500.1239(1)(h).

#### PROPOSED DECISION

The undersigned Administrative Law Judge proposes that the above findings of fact and conclusions of law be adopted in the Department Director's final decision and order, and that Respondent's noticed denial of Petitioner's licensure application be affirmed.

**EXCEPTIONS**

Any Exceptions to this Proposal for Decision should be filed in writing with the Department of Insurance and Financial Services, Division of Insurance, Attention: Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909, within twenty (20) days of the issuance of this Proposal for Decision. An opposing party may file a response within ten (10) days after Exceptions are filed.



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**Lauren G. Van Steel**  
**Administrative Law Judge**