

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

Shannon M. Nino
Petitioner

v

Department of Insurance and Financial Services
Respondent

Case No. 14-941-L
Docket No. 14-010768-DIFS

Issued and entered
this 16th day of October 2014
by Randall S. Gregg
Special Deputy Director

FINAL DECISION

I. BACKGROUND

This case concerns the application of Shannon M. Nino (Petitioner) for a resident insurance producer license.

In March 2014, the Petitioner applied for a resident insurance producer license. On April 10, 2014, 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 upon Petitioner's dishonest responses to Respondent's inquiry into her 2012 misdemeanor conviction for attempted retail fraud.

Petitioner challenged the license denial by filing a Petition for Contested Case Hearing. A hearing was scheduled for June 9, 2014. The Petitioner requested that the hearing be rescheduled. The hearing was rescheduled for August 13, 2014. The Petitioner did not appear on that date. The attorney for the Respondent requested that a default be issued. The administrative law judge granted the request.

The administrative law judge issued a Proposal for Decision (PFD) on August 22, 2014, recommending that the license denial be upheld. The PFD is attached and made a part of this Final Decision. 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 findings of fact in the attached PFD are adopted and made a part of this final decision.

III. CONCLUSIONS OF LAW

Section 1239(1)(h) of the Michigan Insurance Code, MCL 500.1239(1)(a)(h), provides:

(1) In addition to any other powers under this act, the [director] 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 [director] 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.

Section 1205(1)(b) of the Michigan Insurance Code, MCL 500.1205(1)(b), provides:

A person applying for a resident insurance producer license shall file with the commissioner the uniform application required by the commissioner and shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. An application for a resident insurer producer license shall not be approved unless the commissioner finds that the individual meets all of the following:

* * *

(b) Has not committed any act listed in section 1239(1).

By attempting to mislead the licensing process through deliberately providing inconsistent and incomplete statements, the Petitioner has demonstrated dishonesty and untrustworthiness as referenced in section 1239(1)(h) of the Michigan Insurance Code. The Petitioner's dishonest and untrustworthy conduct requires license denial under section 1205(1)(b) of the Michigan Insurance Code.

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

IV. ORDER

The refusal to issue an insurance producer license to Shannon M. Nino is upheld.

Annette E. Flood
Director

For the Director:

A handwritten signature in black ink, appearing to read 'R. S. Gregg', is written over a horizontal line.

Randall S. Gregg
Special Deputy Director

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:

**Shannon M. Nino,
Petitioner**

v

**Department of Insurance
and Financial Services,
Respondent**

Docket No.: 14-010768-DIFS

Case No.: 14-941-L

**Agency: Department of
Insurance and
Financial Services**

Case Type: DIFS-Insurance

**Filing Type: Intent to Deny
License Denial**

**Issued and entered
this 22nd day of August 2014
by Renee A. Ozburn
Administrative Law Judge**

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

On April 10, 2014, the Department of Insurance and Financial Services (DIFS/Respondent) issued a Notice of License Denial and Opportunity for Hearing, asserting that Shannon Nino (Petitioner) did not meet criteria for licensure as a resident insurance producer under the Michigan Insurance Code of 1956, as amended, (Code) MCL 500.100 *et seq.* Ms. Nino requested a hearing to appeal the denial.

On June 2, 2014, a Notice of Hearing was issued scheduling a formal administrative hearing for June 9, 2014. Ms. Nino requested an adjournment and the hearing was rescheduled for August 13, 2014. The Order Granting Adjournment of the June 9, 2014 hearing, was mailed to Ms. Nino at her last known address of record: 5339 Oakhill Drive, Swartz Creek, Michigan 48473.

On August 13, 2014, at the time scheduled for hearing, Attorney Elizabeth Bolden appeared and was ready to proceed on behalf of DIFS. Petitioner Shannon Nino did not appear and was not represented. The undersigned Administrative Law Judge deemed that Petitioner had been duly served with notice and the hearing could proceed in her absence pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended, (APA) MCL 24.201 *et seq.* Attorney Bolden motioned to default Petitioner pursuant to Section 78 of the APA. The undersigned Administrative Law Judge granted

a default. A default judgment constitutes a decision that allegations in the April 10, 2014 Notice of License Denial are true as alleged.

ISSUES AND APPLICABLE LAW

The issue is whether denial of Petitioner's license is appropriate pursuant to Code Sections 1205 and 1239; MCL 500.1205, MCL 500.1239, which, in pertinent part, state:

Sec. 1205.

(4) A person applying for a resident insurance producer license shall file with the commissioner the uniform application required by the commissioner and shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. An application for a resident insurer producer license shall not be approved unless the commissioner finds that the individual meets all of the following:

(b) Has not committed any act listed in section 1239(1).

Sec. 1239.

(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.

FINDINGS OF FACT

1. On March 7, 2014, Shannon Nino (Petitioner) submitted an application to become licensed as a resident insurance producer in the State of Michigan.

2. On her application, Petitioner responded "yes" to the question "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"
3. On November 14, 2012, Petitioner pled guilty to misdemeanor retail fraud.
4. On June 17, 2012, Petitioner stole a Nikon digital camera and a Vizio LC TV from Sam's Club.
5. Petitioner provided a written statement regarding the conviction which was inconsistent with documentation obtained during DIFS' background investigation.
6. Petitioner states the incident took place because she bought a television and a camera from a man and woman that had just stolen them from Sam's Club.
7. The Flint Township Police Department Incident Report states that surveillance video shows Petitioner entering the Sam's Club store and selecting a Nikon digital camera. She placed it in her shopping cart and continued to shop. When Petitioner approached the checkout area, she removed the camera from her shopping cart and placed it in a display of merchandise near the register. After paying for her items she returned to the area where she placed the digital camera, picked it up, concealed it under the purchased items and exited the store without paying for the camera. Approximately thirty minutes later, Petitioner and another person returned to the store to pick up an entertainment console previously purchased that was left in a staging area by the exit door. While the other person loaded up the console, Petitioner went back to the exit door area and took a Vizio TV, which was being held for another customer and not yet purchased. Petitioner exited the store with the unpurchased TV.

CONCLUSIONS OF LAW

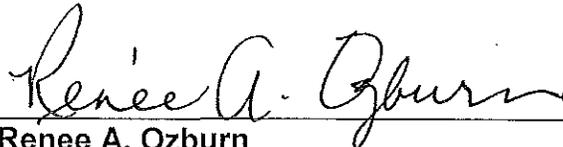
Petitioner bears the burden of proving that she meets the requirements for licensure under the Code. The facts asserted in Respondent's Notice of License Denial are deemed true as alleged pursuant to the default granted because Petitioner failed to show for her hearing. The above Findings of Fact establish the use of dishonest practices by Petitioner. Therefore, pursuant to Code Sections 1205(1)(b) and 1239(1)(h), Respondent's Notice of License Denial should be affirmed.

PROPOSED DECISION

The undersigned Administrative Law Judge recommends that the department director issue a final decision consistent with the above Findings of Fact and Conclusions of Law.

EXCEPTIONS

The parties may file Exceptions to this Proposal for Decision within 20 days after it is issued. Exceptions should be addressed to the Office of Financial and Insurance Regulation, 611 West Ottawa Street, 3rd Floor, P.O. Box 30220, Lansing, Michigan 48909; Attention: Dawn Kobus.

A handwritten signature in cursive script that reads "Renee A. Ozburn". The signature is written in black ink and is positioned above a horizontal line.

Renee A. Ozburn
Administrative Law Judge