

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

In the matter of

Selina Herrin

Petitioner,

v

Department of Insurance and Financial Services

Respondent.

Docket No. 24-013543

Enforcement Case No. 24-17744-L

ISSUED AND ENTERED

October 28, 2024

by Joseph A. Garcia

Special Deputy Director and General Counsel

FINAL DECISION

I. INTRODUCTION

This case concerns the denial of a nonresident insurance producer license to Selina Herrin (“Petitioner”) by the Department of Insurance and Financial Services (“Respondent”). Petitioner appealed the denial, and an administrative hearing was scheduled for 9:00 A.M. on July 15, 2024.

Respondent moved for summary disposition pursuant to Michigan Administrative Code, R 792.10129(1)(a), on July 5, 2024, and Respondent filed a motion for a ruling on its motion for summary disposition on July 10, 2024.

The July 15 administrative hearing convened as scheduled, but Petitioner failed to appear as of 9:18 A.M. By email dated July 15, 2024, however, Petitioner requested a rehearing and asserted that she had thought that the hearing was scheduled to convene at 10:00 A.M. and that she had attempted to call in at that time. The tribunal found good cause to grant a rehearing, and it scheduled a second hearing to convene on August 21, 2024, at 9:00 A.M. The August 21 hearing convened as scheduled, but Petitioner again failed to appear. Respondent moved for entry of default against Petitioner under Sections 72(1) and 78(2) of Michigan’s Administrative Procedures Act, MCL 24.272(1) and MCL 24.278(2), and Michigan Administrative Code, R 792.10134.

On August 29, 2024, Administrative Law Judge Stephen B. Goldstein issued a Proposal for Decision (the “PFD”) recommending that the Director issue a final decision denying the Petitioner’s license application. Neither party filed exceptions to the PFD. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. See *Attorney General v Pub Serv Comm*, 136 Mich App 52, 56; 355 NW2d 640 (1984); see also MCL 24.281. The full procedural history of this case is detailed in the PFD.

The PFD's findings of fact are in accordance with the preponderance of the evidence, and its conclusions of law are supported by reasoned opinion. The PFD is adopted in full and made part of this Final Decision, subject to the following modifications: (1) on page 1, in the section captioned "Procedural History," the denial of Petitioner's "resident" application is changed to reflect the fact that Respondent had denied Petitioner's non-resident application; and (2) on page 7, in the section captioned "Analysis and Conclusions of Law," the sentence stating that "[t]he burden of proof is upon Petitioner to prove by a preponderance of the evidence that grounds exist for the imposition of sanctions upon the Respondent" is modified to reflect that "a tribunal deciding a motion for summary disposition based on the supposed lack of a genuine issue of material fact must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. See *Johnson v VanderKool*, 502 Mich 751, 761; 918 NW2d 785 (2018) (deciding motion for summary disposition under MCR 2.116(C)(10))." The Findings of Fact and Conclusions of Law in the PFD are summarized below.

II. FINDINGS OF FACT

The findings of fact contained in the section of the PFD captioned "Findings of Fact" are in accordance with the preponderance of the evidence and are adopted in full and made part of this Final Decision. The findings of fact are summarized as follows:

1. Petitioner applied for a non-resident insurance producer license on or about October 11, 2023. In her insurance producer license application, Petitioner falsely stated that she had not been convicted of a felony.
2. In fact, Petitioner had been convicted in Louisiana in 1996 of "felony unauthorized use access card," a felony of a financial nature.
3. Petitioner appealed Respondent's denial. Petitioner asserted that her conviction was deferred or otherwise not entered pending successful completion of probation or community service. Petitioner also asserted that her felony conviction occurred more than 25 years ago and that other states have allowed her to have a license.

III. CONCLUSIONS OF LAW

The conclusions of law contained in the section of the PFD captioned "Analysis and Conclusions of Law" are supported by reasoned opinion and are adopted in full and made part of this Final Decision, subject to the modification noted in the introduction. The conclusions of law are summarized as follows:

1. A tribunal deciding a motion for summary disposition based on the supposed lack of a genuine issue of material fact must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion. See *Johnson v VanderKool*, 502 Mich 751, 761; 918 NW2d 785 (2018) (deciding motion for summary disposition under MCR 2.116(C)(10)).
2. A full evidentiary hearing is not required when all alleged facts are taken as true. MCL 24.272(1); *Smith v Lansing School District*, 428 Mich 248, 257; 406 NW2d 825 (1987),

3. Having been convicted of a felony of a financial nature and by submitting to the Director false information in connection with her insurance producer application, the Petitioner does not meet the standards for licensure under MCL 500.1239(1)(e)(iii) and MCL 500.1239(2)(a).
4. Respondent appropriately denied Petitioner's application.

IV. ORDER

Therefore, it is **ORDERED** that:

- A. Petitioner's application for licensure as a non-resident insurance producer is **DENIED**:

Anita G. Fox, Director
For the Director:

Joseph A. Garcia
Special Deputy Director and General Counsel