

State of Missouri

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

IN THE MATTER OF:)	
)	
)	Case No. 090507524C
Trevor Hensley,)	
)	
Applicant.)	
)	
Serve at:)	
)	
Trevor Hensley)	
6300 Wilson Mills Road)	
Mayfield Village, Ohio 44143)	
)	
OR)	
)	
8050 Deepwood Boulevard #17)	
Mentor, Ohio 44060)	

ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On August 27, 2009, Andy Heitmann, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Trevor Hensley. 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 summary order:

FINDINGS OF FACT

1. Trevor Hensley (“Hensley”) is an individual residing in Ohio.
2. On or about January 19, 2009, the Department of Insurance, Financial Institutions & Professional Registration (“Department”) received Hensley’s electronic Uniform Non-Resident Application for Individual Insurance Producer License (“Application”).
3. The Application lists Hensley’s Residence Address as 8050 Deepwood Boulevard #17, Mentor, Ohio, 44060, and his Business Address and Mailing Address as 6300 Wilson Mills Road, Mayfield Village, Ohio, 44143.

4. Hensley holds a perpetual Resident Agent insurance license in Ohio, Ohio Department of Insurance license number 665090, with a Status Date¹ of January 13, 2009.
5. In the section of the Application headed “Background Questions,” Question # 1 asks “Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?”
6. Hensley answered “Yes” to Question # 1.
7. Hensley attached the following documents, relevant to his “Yes” answer to Question # 1, to his Application:
 - a. A “Misdemeanor Statement,” dated October 27, 2008, listing basic information about his criminal charge, including the name of the offense—Sexual Imposition M3 (hereinafter “Sexual Imposition”)—case number, the date of the charge, the court name, an extremely brief description of his conduct that led to the charge, and the outcome of the case—a small fine and two years’ probation.
 - b. A six-line statement about the charge, disclosing that Hensley “had a consenting relationship with a minor.”
 - c. A two-page Case Summary concerning the charge from the Ashtabula [Ohio] Municipal Court.
 - d. A certified Incident/Offense Report from the Ashtabula [Ohio] Police Department, detailing the circumstances of the complaint that led to the charge of Sexual Imposition against Hensley, including the following, as recorded by the reporting officer:
 1. Hensley was a 20-year-old “youth leader” at the victim’s church.
 2. The victim, the 14-year-old son of the church’s pastor, came to Hensley for advice because he was “confused about his sexuality” and had heard Hensley “had been ‘Gay’ at one time.”
 3. Thereafter, Hensley began a sexual relationship with the victim that lasted for 6 or 7 months.
 4. The relationship was discovered by authorities when Hensley confessed the relationship to a church member, and that church

¹ The “Status Date” appears to be the Ohio Department of Insurance’s designation for the date on which the license was issued. See the printout of Ohio Department of Insurance’s online Agent Information page for Hensley, which is attached to this Petition.

member informed the victim's parents, who contacted the police.

5. The victim stated that although Hensley did not force him into a sexual relationship, "once things started he was afraid of what would happen if he said no."
8. On February 3, 2009, Consumer Affairs Division investigator Carrie Couch ("Investigator Couch") mailed Hensley a letter requesting more information regarding the conviction, including certified copies of the charging document, the plea agreement, and the judgment and sentence. Investigator Couch required a response from Hensley by February 23, 2009.
9. Hensley contacted Investigator Couch by phone on February 17, 2009, asking for clarification of Investigator Couch's request for information. Investigator Couch explained to Hensley what documents she had requested in her February 3, 2009 letter. However, Hensley failed to supply the requested documents by February 23, 2009.
10. On March 13, 2009, Investigator Couch sent a second letter to Hensley, requesting certified court records related to his misdemeanor case and requiring that Hensley provide the records by April 3, 2009.
11. On March 26, 2009, Investigator Couch received the following documents from Hensley:
 - a. A certified copy of 4 Complaints, made by Detective Joe Cellitti in the Ashtabula Municipal Court, charging Hensley with 4 counts of Sexual Imposition—that is, with 4 violations of Ohio Revised Code § 2907.06(A)(4). The four counts were labeled as counts "03CRB00923A," "03CRB00923B," "03CRB00923C" and "03CRB00923D."
 - b. A certified copy of an Acknowledgement of Rights and Waiver of Counsel in case 03CRB923, specific to counts A and B, signed by Hensley and indicating that Hensley pleaded no contest to counts A and B in case number 03CRB00923.
 - c. A certified copy of a Judgment Entry, dated August 6, 2003, in case number "03CRB00923 A/B/C/D" in the Ashtabula Municipal Court, showing that Hensley pleaded no contest to counts A and B, that counts C and D were dismissed, that Detective Cillitti "testified as to facts," that "[Defendant] advised facts were accurate," and that the magistrate found Hensley guilty of counts A and B.
 - d. A certified copy of a Court Entry Request, dated August 6, 2003, in case number "03CRB00923 C/D" in the Ashtabula Municipal Court, moving to dismiss counts C and D in Hensley's case, and signed by the judge granting

the motion.

- e. A certified copy of a Judgment Entry, dated October 9, 2003, in case number “03-B-0923 A/B” in the Ashtabula Municipal Court, sentencing Hensley to a fine of “\$ 500/250,” plus costs, and 60 days of jail time, with credit for 1 day served. Execution of the sentence was suspended on condition that Hensley complete 2 years of supervised probation and have no contact with the victim.
 - f. A certified copy of an Order of Discharge of Probation, dated October 11, 2005, in the Ashtabula Municipal Court, stating that Hensley had successfully completed his probation and was discharged.
12. The insurance departments of Arkansas, Louisiana and Michigan have each refused to issue Hensley an insurance producer’s license, or its equivalent:
- a. On August 4, 2009, in response to the Department’s request, the Department received from the Louisiana Department of Insurance (“Louisiana Department”) a certified copy of a letter from the Louisiana Department to Hensley, dated June 26, 2009, in which the Louisiana Department denied Hensley’s application for a non-resident property & casualty license.
 - b. On August 11, 2009, the Department received an Administrative Proceeding Notice from Hensley, which included a copy of a letter from the Louisiana Department to Hensley, dated June 26, 2009, in which the Louisiana Department denied Hensley’s application for a non-resident property & casualty license.
 - c. Hensley’s August 11, 2009 Administrative Proceeding Notice also included a copy of a letter from the Arkansas Insurance Department (“Arkansas Department”) to Hensley, dated April 24, 2009, in which the Arkansas Department declined Hensley’s application for a permit to sit for the Arkansas Agent’s Examination.
 - d. Hensley’s August 11, 2009 Administrative Proceeding Notice also included a copy of a Notice of License Denial and Opportunity for Hearing, addressed to Hensley by the State of Michigan Department of Energy, Labor & Economic Growth, Office of Financial and Insurance Regulation (“Michigan Department”), dated July 23, 2009, denying Hensley’s application for an insurance producer license.

CONCLUSIONS OF LAW

13. Section 375.141, RSMo (Supp. 2008) 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;

* * *

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

* * *

14. The principal purpose of § 375.141, RSMo (Supp. 2008), is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).
15. A crime involving “moral turpitude” is a crime involving “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything ‘done contrary to justice, honesty, modesty, and good morals.’” *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985).
16. Hensley may be refused an insurance producer license, based upon § 375.141.1(6), RSMo (Supp. 2008), because he was convicted of a crime of moral turpitude, in that:
 - a. Hensley pleaded no contest to two misdemeanor counts of Sexual Imposition, upon which plea he was found guilty by the Ashtabula Municipal Court.
 - b. The Ashtabula Municipal Court imposed sentence on Hensley for the two counts of Sexual Imposition, suspending only the execution of that sentence.
 - c. Hensley therefore was convicted of two counts of Sexual Imposition, for purposes of § 375.141.1(6), RSMo (Supp. 2008).
 - d. Sexual Imposition is a crime of moral turpitude in that:
 1. Ohio Revised Code § 2907. 06 defines the crime of Sexual Imposition as follows, in relevant part:

(A) No person shall have sexual contact with another, not the spouse of the offender . . . when any of the following applies:

* * *

(4) The other person . . . is thirteen years of age or older, but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.

* * *

(C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree.

Ohio R.C. § 2907.06(A), (C).

2. In *Brehe v. Mo. Dept. of Elementary & Secondary Education*, which involved an attempt to discipline a teacher's certificate under § 168.071, RSMo, for committing a crime involving moral turpitude, the court referred to three categories of crimes, the categories drawn from 21 Am.Jur.2d. Criminal Law § 22 (1998):
 - (1) crimes that necessarily involve moral turpitude (referred to in *Brehe* as "category 1" crimes);
 - (2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude" ("category 2" crimes); and
 - (3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily ("category 3" crimes).

See Brehe v. Mo. Dept. of Elementary & Secondary Education, 213 S.W.3d 720, 725 (Mo. App. 2007).
3. Category 1 crimes, since they necessarily involve moral turpitude, require no analysis beyond their elements to show moral turpitude; category 3 crimes require some examination of the facts supporting the conviction in order to determine whether they involve moral turpitude. *See Brehe at 725-7; See also Joyce v. Dir. of Dept. of Ins.*, 7-1364 DI (Mo. Admin. Hearing Comm'n July 7, 2008).
4. Sexual Imposition, under Ohio R. C. § 2907.06(A)(4), the statute under which Hensley was convicted, is a category 1 crime under *Brehe*, because it necessarily involves the conviction of an adult person for having sexual contact with a minor no older than 16 years of age and at least 4 years younger than the offender, and:
 - a. Such sexual contact with a minor necessarily involves moral turpitude because it is "an act of baseness, vileness, or depravity in

the private and social duties which a man owes to his fellowman or to society in general,” in that it involves an adult taking advantage of a minor, who as a matter of law is unable to consent to such sexual contact, for the base, vile and depraved purpose of the adult’s selfish sexual gratification, without regard for the effects of such selfish gratification on the life of the victim and the lives of the victim’s loved ones or on society in general (victims of abuse often become abusers).

- b. Such sexual contact with a minor necessarily involves moral turpitude because it is “done contrary to ... modesty and good morals,” in that it is immodest and immoral for an adult to proposition, and then take sexual advantage of, a minor.
5. In this particular case, even if Sexual Imposition is considered as a category 3 crime, the facts supporting Hensley’s conviction clearly show moral turpitude:
- a. Hensley was a 20-year-old “youth leader” at the victim’s church.
 - b. According to the certified copy of the Incident/Offense Report filed with the Ashtabula Police Department, the victim, the 14-year-old son of the church’s pastor, came to Hensley for advice because he was “confused about his sexuality” and had heard Hensley “had been ‘Gay’ at one time.”
 - c. According to the certified copy of the Incident/Offense Report, the victim stated that although Hensley did not force him into a sexual relationship, “once things started he was afraid of what would happen if he said no.”
 - d. Hensley abused his position of trust and confidence as the boy’s youth minister, and the boy’s vulnerability of youth and confusion, to persuade the boy to enter into, and then continue, an illegal sexual relationship with Hensley.
 - e. In taking advantage of his position and the boy’s vulnerability, Hensley clearly committed “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general,” in that Hensley had been trusted by the victim, the church, and the victim’s father (as a father and as pastor of the church), with a duty to help and mentor the youth of the church, including the victim. Hensley took advantage of that trust to gratify his own sexual desires, thus violating that trust and his duty to his fellowman.

- f. Hensley's acts of Sexual Imposition were "done contrary to ... good morals," in that it is immoral for an adult in a position of trust to abuse that position of trust for his own sexual gratification.
6. Sexual imposition M3 has been found in Ohio courts to be a crime of moral turpitude for purposes of disciplining Ohio licenses:
 - a. In *Cantrell v. Ohio State Bd of Emergency Med. Servs.*, 2007 WL 102130 (Ohio App. 4 Dist.) (not reported), the court looked at the facts of a Sexual Imposition M3 case and found moral turpitude where, seven years prior, a licensed EMT, at the time of the violation employed at a county jail, had engaged in consensual sex with an inmate with whom he had a prior romantic relationship;
 - b. In *Jaros v. Ohio State Bd of Emergency Med. Servs.*, 2002 WL 1065876 (Ohio App. 6 Dist.) (not reported), it was undisputed that the licensed EMT's conviction for Sexual Imposition M3 was a conviction for a crime of moral turpitude.
 - c. The Ohio Regulatory Code provision relevant to *Cantrell* and *Jaros* uses the following definition of "moral turpitude," which is similar to that used in Missouri case law relevant to this Petition:

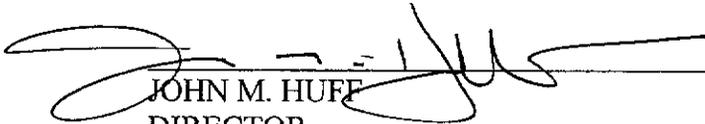
[An] act of baseness, vileness, or the depravity in private and social duties which one owes to society, contrary to accepted and customary rule of right and duty between human beings. Ohio Admin. Code 4765:1-01(MM).
 17. Hensley may be refused an insurance producer license, based upon § 375.141.1(9), RSMo (Supp. 2008), because he has had an insurance producer license, or its equivalent, denied in Arkansas, on April 29, 2009.
 18. Hensley may be refused an insurance producer license, based upon § 375.141.1(9), RSMo (Supp. 2008), because he has had an insurance producer license, or its equivalent, denied in Louisiana, on June 26, 2009.
 19. Hensley may be refused an insurance producer license, based upon § 375.141.1(9), RSMo (Supp. 2008), because he has had an insurance producer license, or its equivalent, denied in Michigan, on July 23, 2009.
 20. The Director has considered Hensley's history and all of the circumstances surrounding Hensley's Application. The Director determines that issuance of a Missouri insurance producer license to Hensley would not be in the interest of the public. For all the reasons enumerated in this Order, the Director exercises his discretion in refusing to issue an insurance producer license to Hensley.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Trevor Hensley is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 6th DAY OF OCTOBER, 2009.


JOHN M. HUFF
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.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October, 2009, a copy of the foregoing notice and order was served upon Hensley in this matter by certified mail.



Karen Crutchfield
Senior Office Support Staff