State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Lorraine Annette Ragins-Young	)	Case No. 07A000415
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
30404 Pogo Way Wesley Chapel FL 66544	))	
	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On October 1, 2007, Kathyrn Turner, as Chief Investigations Counsel for the Investigations Section of the Consumer Affairs Division, submitted a petition to the Director alleging cause for refusing to issue the insurance producer license of Lorraine Annette Ragins-Young ("Applicant"). After reviewing the petition, and the investigative report, the Director issues the following findings of fact, conclusions of law and summary order:

FINDINGS OF FACT

1. Lorraine Annette Ragins-Young ("Applicant") is a Florida resident with an address of 30404 Pogo Way, Wesley Chapel, Florida 66544.

2. On May 31, 2007, the Department of Insurance, Financial Institutions & Professional Registration received the electronic Uniform Application for Individual Insurance Producer License of Applicant ("Application").

3. Under "Background Questions" on the electronic Application, Question 1 asks,

   > Have you ever been convicted of a crime, had a judgment withheld or deferred…?

4. Applicant answered "Yes" to this question.

5. On August 20, 1993, in the Circuit Court of Hillsborough County Florida, Applicant pled guilty to the felony of Grand Theft Third Degree for the theft of $2,530.00 from a family member's bank account.

6. Applicant was sentenced to two years in the Florida Department of Corrections, followed by one year supervised probation.

7. This order is in the public interest.

CONCLUSIONS OF LAW

8. Section 375.141.1 RSMo (Cum. Supp. 2006) 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:
>
> > (6) Having been convicted of a felony or crime involving moral turpitude.

9. Applicant has been convicted of the felony of Grand Theft Third Degree for the theft of $2,530.00 from a family member's bank account, a ground for refusal under Section 375.141.1(6) RSMo (Cum. Supp. 2006).

Disqualification for the 1993 Plea

10. Applicant may be disqualified and therefore, refused an insurance producer license, based upon the provisions of §375.141(6), RSMo (Cum. Supp. 2006) for the conviction of the felony of Grand Theft Third Degree. The current statute is to be properly applied to licensing actions. ***Huddlestonsmith v. Director of Insurance***, No. 06-0161 DI (Mo. Admin. Hearing Comm'n November 13, 2006; ***Finke v. Cummings***, Case No. 06AC-CC01084, March 23, 2007; **But see**, ***Director of Insurance v. Donald E. Christian***, No. 06-1603 DI (Mo. Admin. Hearing Comm'n May 22, 2007).

Discretion

11. As §375.141, RSMo (Cum. Supp. 2006) provides that the director "may" refuse a license, the director has discretion under this section for disqualifying Applicant on the basis of the conviction of a felony. ***State Bd. Of Regis'n for the Healing Arts v. Finch***, 514 S.W. 2d 608 (Mo. App., E.D. 1984); ***Rochelle K. Whatley v. Director of Insurance,*** No. 05-1074 DI (Mo. Admin. Hearing Comm'n January 3, 2007). A licensed insurance producer is authorized to solicit, negotiate and sell insurance contracts, and in doing so is often entrusted with substantial funds belonging to others. This fiduciary capacity requires integrity. Due to training and the complexity of many insurance contracts, a licensed insurance producer

also often enjoys a substantial bargaining advantage over many prospective insurance purchasers. A duty of fair dealing accompanies this specialized professional knowledge. Applicant's conviction impacts on whether Applicant can maintain the integrity, fiduciary duties and the duty of fair dealing required of an insurance producer, regardless of how long ago the conviction occurred. A plea of guilty arising from the theft of $2,530.00 from a family member's bank account does reveal a risk to the citizens of this state, which is unjustified.

12. The issuance of a license to an applicant "...places the seal of the state's approval upon the licentiate and certifies to the public that he possess these requisites [competency, skill...]" ***State ex rel. Lentine v. State Bd. Of Health***, 66 S.W. 2d 943, 950 (Mo. 1993) cited in ***David R. Hess v. Director of Insurance***, No. 93-000368DI, p.4, footnote 5 (Mo. Admin. Hearing Comm'n August 9, 1993). Based on the facts presented in the Application, the nature of the conviction and the information gathered by the Consumer Division, the seal of the state's approval should not be granted.

13. Section 374.051.1 RSMo as enacted by Senate Committee Substitute for Senate Bill 66, in the 94th General Assembly, First Regular Session 2007, provides, in part:

> Notwithstanding section 621.120, RSMo, the director shall retain discretion in refusing a license...and such discretion shall not transfer to the administrative hearing commission.

14. As the above-cited provision was enacted by the General Assembly, it is clear that the legislative intent is that the Director retain his discretion in refusing to issue a license as long as there is a basis in the facts to conclude that there are grounds for refusal under §375.141 RSMo (Cum. Supp. 2006). The Director exercises his discretion to refuse to issue an insurance producer license to Applicant.

15. Although states regulate the business of insurance, the federal government recognized the concern of permitting individuals with criminal histories to conduct that business when it enacted the Insurance Fraud Prevention Act of 1994, 18 U.S.C. § 1033(e)(2) which requires the director to specifically waive the presumption of disqualification for convictions involving felonies involving dishonesty or breach of trust. Applicant's offense was a felony and does involve dishonesty and breach of trust. The Director does hereby decline to issue a waiver under 18 U.S.C. § 1033(e)(2) for Applicant to engage or participate in the business of insurance in Missouri.

16. In applying this discretion, the Director has considered the history of the Applicant and the nature of the offense which is a felony and involves stealing money from a family member. For all of these reasons, the Director exercises his discretion in refusing to license the Applicant.

17. The Director, in making this decision, has considered all of the information within the whole record of application as presented by the applicant as well as the Investigations staff. Any failure to specifically address a piece of evidence, information, position or argument of any party does not indicate that the Director has failed to consider relevant information, but indicates rather that the omitted material was not dispositive of the Director's decision.

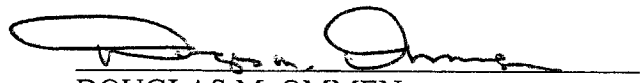
18. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the issuance of the insurance producer license of Applicant Lorraine Annette Ragins-Young is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 13th DAY OF November, 2007.



DOUGLAS M. OMMEN
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 13th day of November, 2007, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified mail.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff