State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Sean E. Taylor,	)	Case No. 08A000131
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
34 Woodbine Street Waterbury, CT 06705	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On October 30, 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 Sean E. Taylor. 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. Sean E. Taylor ("Taylor") is an individual residing in Connecticut, with a mailing address of record of 34 Woodbine Street, Waterbury, Connecticut, 06705.

2. On or about February 7, 2008, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received an electronic Non-Resident Individual Producer License Application submitted by Taylor ("Application").

3. At no time after he submitted his Application did Taylor inform the Department of any change in his address.

4. In the section of the Application headed "Background Questions," Background Question # 1 asks "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"

5. Taylor answered "Yes" to Background Question # 1.

6. Also in the "Background Questions" section of the Application, Background Question # 4 asks "Have you been notified by any jurisdiction to which you are applying of any delinquent

tax obligation that is not the subject of a repayment agreement?"

7. Taylor answered Background Question # 4 "Yes; U.S. DEPARTMENT OF TREASURY."

8. On February 8, 2008, the Department received by facsimile transmission copies of the following documents related to Taylor's Application:

a. A letter signed by Taylor, dated "February 2008," giving brief explanations of his answers to Background Questions # 1 and # 4.

b. A certified copy of a plea document from the State of Connecticut Superior Court, Division GA 04, showing that Taylor pled guilty on or about July 28, 1998, to one count of Patronizing a Prostitute, which is a violation of § 53a-83 of the Connecticut Penal Code, and paid a $100 fine and $15 in costs;

c. A copy of a receipt for payment of the fine and costs; and

d. A letter signed by Robert O. Wood, Certified Public Accountant, dated February 3, 2008, stating, in relevant part, that "all income tax returns for Shawn [sic] Taylor for the years ended 2000 through 2006 have been completed and filed with the federal government . . . Normally it takes the Internal Revenue Service six to eight weeks to process newly filed returns. Based on their determination, we will enter a payment arrangement at that time."

9. On February 25, 2008, the Department's Consumer Affairs Division opened an investigation concerning the Application.

10. On February 25, 2008, an investigator for the Consumer Affairs Division mailed a letter by first class mail to Taylor, at 34 Woodbine Street, Waterbury, Connecticut, 06705, requesting a certified copy of a repayment schedule for Taylor's federal tax obligations.

11. On March 6, 2008, the Department received a mailed response from Taylor. The response did not contain a copy of a repayment schedule, certified or otherwise.

12. On May 9, 2008, the investigator mailed a second letter by first class mail to Taylor, at 34 Woodbine Street, Waterbury, Connecticut, 06705, again requesting a certified copy of a repayment schedule for Taylor's federal tax obligations. In the letter, the investigator advised Taylor that Taylor's response was due on or before May 30, 2008.

13. On July 9, 2008, as the Consumer Affairs Division had not received a response to the May 9, 2008 letter, the Acting Director of the Department issued a subpoena duces tecum to Taylor ("Subpoena").

14. The Subpoena ordered Taylor to produce a certified copy of Taylor's tax obligation repayment schedule and copies of all correspondence from the Internal Revenue Service to

Taylor between April 1, 2008, and July 9, 2008. In the Subpoena, the Acting Director specified that Taylor could comply with the Subpoena by mailing the required documents to the investigator by August 1, 2008.

15. The Subpoena was sent to Taylor by certified mail. On July 12, 2008, someone at 34 Woodbine Street, Waterbury, Connecticut, 06705 signed the return receipt for the Subpoena, indicating that the Subpoena was delivered to that address.

16. Taylor did not respond to the Subpoena.

17. To date, the Department has not received a certified copy of Taylor's repayment schedule for his federal tax obligations.

18. Taylor has never offered any justification for his failure to submit a certified copy of a repayment schedule for his federal tax obligations, except that his accountant averred that it takes six to eight weeks for the Internal Revenue Service to "process newly filed returns." Six to eight weeks from the date of the letter in which Taylor's accountant made that statement was March 16 to March 30, 2008, giving Taylor plenty of time to negotiate the payment schedule and submit it to the Department as requested and ordered.

CONCLUSIONS OF LAW

19. Section 375.141, RSMo (Supp. 2008) provides, in part:

> 1. The director may . . . refuse to issue . . . an insurance producer license for any one or more of the following causes:
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> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> * * *
>
> (6) Having been convicted of a felony or crime involving moral turpitude;
>
> * * *

20. The version of 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, in effect at the relevant times[1], provided in part:

> (1) Definitions

[1] Nearly identical language is now codified in separate regulations. To the extent that this Order bases any part of the refusal to issue Taylor's license on Taylor's acts or omissions occurring on or after July 30, 2008, the citations to this version of 20 CSR 100-4.100 should be read as citations to the nearly identical re-codified language in 20 CSR 100-4.100 and 20 CSR 100-4.010.

* * *

(C) Adequate response means a written response answering each inquiry with reasonable specificity. A person's acknowledgment of the division's inquiry is not an adequate response.

* * *

(2) Except as required under subsection (2)(B)—

(A) Upon receipt of any inquiry from the division, every person shall mail to the department an adequate response to the inquiry within twenty (20) days from the date the department mails the inquiry . . . When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

* * *

21. Section 374.210, RSMo (Supp. 2008), provides, in relevant part:

* * *

2 . . . The director may also suspend, revoke or refuse any license ... issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

* * *

22. Section 53a-83 of the Connecticut Penal Code states:

(a) A person is guilty of patronizing a prostitute when: (1) Pursuant to a prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him; or (2) he pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him; or (3) he solicits or requests another person to engage in sexual conduct with him in return for a fee.

(b) Patronizing a prostitute is a class A misdemeanor.

23. Section 567.010, RSMo (2000), defines "Patronizing Prostitution" as follows:

[A] person patronizes prostitution if

(a) Pursuant to a prior understanding, he gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with him or with another; or

(b) He gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with him or with another; or

(c) He solicits or requests another person to engage in sexual conduct with him or with another, or to secure a third person to engage in sexual conduct with him or with another, in return for something of value;

24. 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).

25. In *Brehe v. Mo. Dept. of Elementary & Secondary Education*, 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;

(2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude;" and

(3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily.

See Brehe v. Mo. Dept. of Elementary & Secondary Education, 213 S.W.3d 720, 725 (Mo. App. 2007).

26. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

27. 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).

28. Taylor's Application may be refused under § 375.141.1(2), RSMo (Supp. 2008) because Taylor twice violated 20 CSR 100-4.100 by failing to provide adequate responses to Department inquiries within 20 days:

a. Although Taylor acknowledged the Department's February 25, 2008 request, Taylor failed to adequately respond by providing certified copies of a repayment plan for his delinquent federal tax obligations and failed to show a reasonable

justification for the delay in adequately responding (the letter was from Taylor's accountant and failed to give a date on which a certified copy of the payment plan would be available to Taylor);

b. Taylor failed to respond to the May 9, 2008 letter from the Department and therefore failed to provide an adequate response to that letter.

c. In neither case did Taylor provide reasonable justification for the delay in providing an adequate response to the Department's inquiry.

29. The Director ordered Taylor by subpoena duces tecum to produce documents containing information necessary to decide his Application on its merits. Taylor failed to produce records in response to the Director's subpoena. Taylor did not apply to any court for relief from the director's subpoena duces tecum. Taylor's failure to produce records is a failure to obey an order of the Director and constitutes cause to refuse Taylor's license under § 375.141.1(2), RSMo (Supp. 2008).

30. The Director ordered Taylor by subpoena duces tecum to produce documents containing information necessary to decide his Application on its merits. Taylor failed to produce records in response to the Director's subpoena. Taylor did not apply to any court for relief from the director's subpoena duces tecum. Taylor's failure to produce records is a failure to obey the Director's subpoena and constitutes cause to refuse Taylor's license under § 374.210.2, RSMo (Supp. 2008).

31. Certified court documents supplied by Taylor indicate that he was convicted of a class A misdemeanor of Patronizing a Prostitute.

32. The crime of Patronizing a Prostitute, as defined in Connecticut law, necessarily involves moral turpitude because exchanging money for sex is an act of baseness and depravity in the duties which a person owes to society and is done contrary to modesty and good morals.

33. The crime of Patronizing Prostitution, as defined in Missouri law—which definition is the same in all relevant respects as the definition of Patronizing a Prostitute under Connecticut law—has been found by the Administrative Hearing Commission, without discussion of the underlying facts in the case, to be a crime of moral turpitude. *See State Board of Registration for the Healing Arts v. Robertson*, 96-001832 HA (Mo. Admin. Hearing Comm'n January 28, 1998).

34. The Director should consider Taylor's history and all of the circumstances surrounding Taylor's Application. Taylor failed to respond to Department inquiries. Taylor failed to obey an order of the Director and failed to produce documents as ordered by subpoena. Taylor was convicted of a crime of moral turpitude. For these reasons, the Director should exercise his discretion in refusing to license Taylor.

35. An order refusing to issue a license to Taylor would be in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Sean E. Taylor is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 30th 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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2009, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by priority mail No. 0309 0330 0002 3161 8056 in a third attempt to:

Sean E. Taylor
The Hartford
100 Executive Blvd. North FL 1
Southington, CT 06489

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff