State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Douglas A. Moore,	)	**Case No. 09A000216**
	)	
Applicant.		

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On September 25, 2009, Mary S. Erickson, Senior 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 Douglas A. Moore. 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. Douglas A. Moore ("Moore") is an individual residing in Missouri, whose mailing address of record is 1417 N. Sherman, Springfield, Missouri, 65802.

2. On March 12, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a Uniform Application for Individual Insurance Producer License from Moore ("Application").

3. In the section of the Application entitled "Background Information," Question No. 1 asks: "Have you ever been convicted of a crime, had judgment withheld or defer, or are you currently charged with committing a crime?"

4. Moore answered "Yes" to Background Question No. 1.

5. As part of his Application, Moore disclosed a November 14, 1991 felony conviction in the Superior Court of Arizona, Maricopa County. Moore pleaded guilty to Attempted Molestation of a Child, a dangerous crime against children in the Second Degree, a class 3 felony. *State of Arizona v. Douglas Austin Moore,* Superior Court of Arizona, Maricopa County, No. CR 91-06051. The court suspended the imposition of sentence, placed Moore on lifetime probation, and ordered Moore to one year in the Maricopa County Jail. As part of his terms of probation, Moore was to have no contact with children under the age of 18 years.

6. The Presentence Investigation in *State of Arizona v. Douglas Austin Moore* details Moore's molestation of the seven-year old victim. Moore had been alone in a home with the

victim and her younger sister when the molestation occurred. Moore provided a statement to the Deputy Adult Probation Officer who wrote the Presentence Investigation. Moore explained that he lifted the victim's shirt and:

> [H]e was talking to her [the victim] about her body and how it was going to change as he is fascinated by the body and interested in medicine. He further stated that he told the victim that, "there would be people trying to molest you." He stated he did not pull her panties down, but instead folded them down. He reported his intentions were purely clinical.
>
> * * *
>
> [Moore] told them [the victim and her sister] about a trip he had taken in Indiana and talked about EMT procedures. He stated while in Indiana, a friend of his asked him to check a mass on her daughter's nipple. He stated he went around the nipple area on the girl to show her the size of the mass. He asked the victim if it was okay to show her and told them that he has seen his nieces without clothes before. He then pulled back her underwear to show her her genitalia.

7. According to the Presentence Investigation, Moore felt "the only thing he had done wrong was a lack of communication in explaining a medical procedure. . . . He feels bad about lying to the judge by saying there was a sexual interest when there was not." Also according to the Presentence Investigation, Moore had a photo album containing 75 to 100 (non-explicit) pictures of young children who Moore says were friends.

8. On October 13, 1995, the same court found that Moore violated the terms of his probation and sentenced Moore to ten (10) years imprisonment (with credit given for days already served). According to the September 14, 1995 Probation Violation Report, Moore violated the terms of his probation, *inter alia*, by having contact wit h children on several occasions during his probation including sending poems to a fifteen-year old girl. The Senior Adult Probation Officer who wrote the Probation Violation Report was also concerned that while on probation, Moore was seen wearing two Emergency Medical Technician (EMT) pins on each side of his collar. However, Moore's EMT license had expired. Moore's probation officer directed Moore to remove the pins and not represent himself in any way as an EMT. The probation officer was concerned that the appearance of Moore as an EMT could provide an opening for Moore to reoffend. Moore was released from prison on July 5, 2001.

9. In his explanation regarding the felony attached to his Application, Moore explains:

> My name is Douglas A. Moore and in July 1991, I was accused of inappropriately touching the breast and pubic area of a seven year old girl. The touching consisted of a pressing type of motion on the chest and a tap on the pubic area. On the advice of my attorney, I plead guilty and was subsequently convicted in November of 1991 as a result of that one incident.

10. On April 29, 2009, Special Investigator Carrie Couch, as designee of the Department's Director, held an investigation conference with Moore pursuant to a Subpoena Duces Tecum served on Moore as part of Moore's application process for an insurance producer license.

11. Moore testified under oath that he would not have a formal office as an insurance producer but would go to consumer's homes. If there are children at the home, Moore stated they "can either go outside and play or they can go into another room. . . . And if the parents are not home, I am not there."

12. When asked about his felony conviction, Moore testified that "in the eyes of the law, because the girl was touched on her chest and pubic areas, that was classified as molestation. Whether there was sexual intent or not, I cannot say."

13. Moore is listed as compliant with the Missouri State Highway Patrol Missouri Sex Offender Registry.

CONCLUSIONS OF LAW

14. Section 375.141.1 RSMo (Supp. 2008)[1] provides:

> 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[.]

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. The principal purpose of § 375.141 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).

17. Moore may be refused an insurance producer license pursuant to § 375.141.1(6) because he was convicted of the felony of Attempted Molestation of a Child. *State of Arizona v. Douglas Austin Moore,* Superior Court of Arizona, Maricopa County, No. CR 91-06051.

18. Moore may be refused an insurance producer license pursuant to § 375.141.1(6) because the criminal offense itself and the factual circumstances of Moore's offense of Attempted Molestation of a Child necessarily involve moral turpitude where the crime is "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his

[1] All statutory references are to RSMo (Supp. 2008) unless otherwise indicated.

fellowman or to society in general." *Frick*, 694 S.W.2d at 479; *see also State Bd. of Cosmetology v. Yasar*, No. 04-1132 CS (Mo. Admin. Hrg. Comm'n March 17, 2005) (attempted child molestation is an offense involving moral turpitude).

19. The Director has considered Moore's history and all of the circumstances surrounding Moore's Application. Moore has a felony conviction of Attempted Molestation of a Child, which is also a crime of moral turpitude. The court revoked Moore's probation and ordered him to prison for ten years when Moore violated the terms of his probation by having contact with children. Also, the facts reveal that granting a license is not in the public interest where: (1) Moore admitted he lied to the judge who accepted his guilty plea; (2) Moore now cannot say whether the child molestation felony was committed with a sexual intent when he admitted to the judge that the crime was committed with a sexual intent; and (3) as an insurance producer, Moore will not have an office, but will meet with consumers in their homes, thus placing Moore in a position to know the children at their homes and to potentially gain their trust, as occurred with the victim in his felony Attempted Molestation of a Child conviction. For the reasons stated in this Order, the Director exercises his discretion by refusing to issue Moore an individual insurance producer license.

20. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of DOUGLAS A. MOORE is hereby summarily **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 30th **DAY OF** SEPTEMBER**, 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 1st day of October, 2009, a copy of the foregoing Notice and Order was served upon the Applicant in this matter by certified mail No. 7006 0100 0005 2090 6433.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff