STATE OF MISSOURI
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Robert A. Hocks,	)	Case No. 09A000470
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
906 W. Broadway Columbia, Missouri 65203	))	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On September 21, 2009, Elfin L. Noce, as Legal Counsel for the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Robert A. Hocks ("Hocks"). 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. Robert A. Hocks ("Hocks") is a Missouri resident with an address of 906 W. Broadway, Columbia, Missouri 65203.

2. On or about June 10, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Hocks' electronic Uniform Application for Resident Individual Producer License ("Application").

3. In the "Background Questions" section of the Application, 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?"

4. Hocks answered "Yes" to Background Question #1.

5. On his Application Hocks states "I have several federal charges pending, that stem from a 2007 two-count indictment for possession as well as conspiracy to distribute marijuana in the Boone County area. These allegations have yet to be proven in a court of law, and may I remind you, these charges are two and a half years old and have failed to be resolved. My pretrial officer, Cindy Piant, should have faxed you the official documents that outline these allegations, and that you require to accompany this letter."

6. In a Fifth Superseding Indictment, filed in the U.S. District Court for the Western District of Missouri, in *United States v. McCauley and Hocks*, Case No. 07-04009/02-CR-C-SOW, Hocks is charged with one count of Conspiracy to Distribute and Possess with Intent to Distribute Marijuana, one count of Possess with Intent to Distribute Marijuana, and one count of Maintain a Facility for the Purpose of Distributing Marijuana. This case is currently set for trial on September 28, 2009.

7. After investigating Hocks' Application, Special Investigator Carrie Couch ("Couch") discovered that Hocks failed to disclose his full criminal record on the Application.

8. On June 24, 2009, Couch mailed a letter to Hocks requesting additional information on the charges currently pending and information about Hocks' criminal record that Hocks did not disclose in his Application. Couch requested a response by July 15, 2009.

9. On July 6, 2009, Hocks faxed a letter to Couch along with documentation regarding his past criminal history. In his letter Hocks stated "I apologize for failing to disclose these charges before, but I felt they were easy enough to look up on case net and I just assumed that since they were so old that they would not be an issue."

10. Hocks submitted documentation with his July 6, 2009 fax on the following, previously undisclosed, criminal cases:

    a. On April 4, 2000, in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 13R010068550, Hocks pleaded guilty to misdemeanor Possession Of Up To 35 Grams Marijuana and was sentenced to 30 days in Boone County Jail. The Circuit Court suspended execution of the sentence and ordered two years unsupervised probation.

    b. On April 4, 2000, in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 13R010068623, Hocks pleaded guilty to misdemeanor Possession of Up To 35 Grams Marijuana and Unlawful Use Of Drug Paraphernalia and was fined $200 for each misdemeanor.

    c. On April 4, 2000, in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 13R019966823, Hocks pleaded guilty to misdemeanor Unlawful Use Of Drug Paraphernalia and was fined $200.

    d. On July 19, 2001, in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 01CR166401, Hocks pleaded guilty to two misdemeanors: Purchase/Attempted Purchase or Possession of Liquor by Minor and Unlawful Use of Drug Paraphernalia. Hocks received a suspended imposition of sentence for the misdemeanor Purchase/Attempted Purchase or Possession of Liquor by Minor guilty plea and was fined $1000 with $950 stayed for the misdemeanor Unlawful Use of Drug Paraphernalia guilty plea. Hocks was also placed on two years

unsupervised probation. On May 7, 2003, the Circuit Court of Boone County, Missouri, found Hocks violated his probation and revoked his probation. The Circuit Court then reinstated Hocks' probation with the original conditions.

e. On May 15, 2003, in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 03CR164454, Hocks pleaded guilty to misdemeanor Theft/Stealing (Value of Property Or Services Is Less Than $500) and was sentenced to 30 days in Boone County Jail with suspended execution of sentence and placed on two years supervised probation. On January 16, 2004, Hocks confessed to violating his probation and the Circuit Court of Boone County ordered the sentence of 30 days executed.

11. In explanation of his 2003 Theft/Stealing conviction and subsequent revocation of his probation, Hocks stated:

> Moving forward, I appreciate being given the chance to explain my 2003 theft/stealing charge and the subsequent revocation of my probation in 2004. I was young, and one night I went to the casino in Booneville and lost all of my money. I returned home angry and disappointed, and I entered a Gerbes supermarket and attempted to steal a $10 bottle of alcohol and was arrested. On the day I decided that I would never steal again, and have not. This charge has burdened my conscience and kept me from doing many things in my life for quite some time now. If there were any way to go back to that fateful night and stop myself from committing such a hasty and irrational act I would do so. The following year I was without insurance, and was experiencing anxiety. I talked to a friend who gave me prescription Xanax to take in the hope that it would help me. One night I was getting a ride home from work from a friend of mine when he was pulled over. The police officer asked me to step out of the vehicle and I complied. I allowed him to search me and he found several Xanax pills in my pocket. I was unaware of the magnitude of this crime. This was the reason my probation was revoked at that time. None-the-less, I served a year in drug court, the charge was dropped, and I am a non-felon.

CONCLUSIONS OF LAW

12. 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:
>
> > (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

(3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;

. . .

(6) Having been convicted of a felony or crime involving moral turpitude;

. . .

13. Moral turpitude has been defined as "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. 1985). Crimes which involve moral turpitude include crimes involving violations of narcotics laws, fraud, false pretenses, and theft. *Id.*

14. The principal purpose of § 375.141, RSMo 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. Hocks may be refused an insurance producer license based upon § 375.141.1(6), RSMo (Supp. 2008) for his April 4, 2000 misdemeanor conviction of Possession Of Up To 35 Grams Marijuana in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 13R010068550, which is a crime of moral turpitude.

16. Hocks may be refused an insurance producer license based upon § 375.141.1(6), RSMo (Supp. 2008) for his April 4, 2000 misdemeanor conviction of Possession of Up To 35 Grams Marijuana and Unlawful Use Of Drug Paraphernalia in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 13R010068623, which is a crime of moral turpitude.

17. Hocks may be refused an insurance producer license based upon § 375.141.1(6), RSMo (Supp. 2008) for his April 4, 2000 misdemeanor conviction of Unlawful Use Of Drug Paraphernalia in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 13R019966823, which is a crime of moral turpitude.

18. Hocks may be refused an insurance producer license based upon § 375.141.1(6), RSMo (Supp. 2008) for his July 19, 2001 conviction of Unlawful Use of Drug Paraphernalia in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 01CR166401, which is a crime of moral turpitude.

19. Hocks may be refused an insurance producer license based upon § 375.141.1(6), RSMo (Supp. 2008) for his May 15, 2003 misdemeanor conviction of Theft/Stealing (Value of Property Or Services Is Less Than $500) in the Circuit Court of Boone County, Missouri, in *State of Missouri v. Robert Allen Hocks*, Case No. 03CR164454, which is a crime of moral turpitude.

20. Hocks' explanation to the Department for why he did not disclose his full criminal history is not credible. The most likely explanation for Hocks failure to disclose such events on his Application is that he intentionally failed to disclose his criminal history in order to improve his chances of succeeding with his Application.

21. Hocks may be refused an insurance producer license based upon § 375.141.1(1), RSMo (Supp. 2008), for intentionally providing materially incorrect, misleading, incomplete or untrue information in a license application by failing to disclose his complete criminal history on his Application.

22. Hocks may be refused an insurance producer license based upon § 375.141.1(3), RSMo (Supp. 2008), for attempting to obtain a license through material misrepresentation or fraud by failing to disclose his complete criminal history on his Application.

23. In applying his discretion, the Director has considered the history of Hocks and all of the circumstances surrounding Hocks' Application. Hocks' multiple convictions of crimes of moral turpitude, the violation of his probation on two occasions, and his failure to disclose his complete criminal history on his application raises questions of Hocks' ability to comply with Missouri law and whether he can meet the significant responsibilities required of a licensed insurance producer. For these reasons, the Director exercises his discretion in refusing to issue an insurance producer license to Hocks.

24. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that issuance of the insurance producer license of Applicant Robert A. Hocks is hereby REFUSED.

SO ORDERED.

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

JOHN M. HUFF
DIRECTOR

NOTICE

TO: Robert A. Hocks 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 thirty (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 the Robert A. Hocks in this matter by certified mail.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff