State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
	)	**Case No. 10-0128148C**
Ebert E. Schneider, Jr.,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
P.O. Box 220	)	
Jackson, Missouri 63755	)	
	)	
And	)	
	)	
226 Elwanda	)	
Cape Girardeau, Missouri 63754	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On April 27, 2010, Tamara W. Kopp, 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 Ebert E. Schneider, Jr. 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:

FACTUAL BACKGROUND

1. Ebert E. Schneider, Jr. ("Schneider") is an individual residing in Missouri, whose mailing address of record is P.O. Box 220, Jackson, Missouri 63755. Schneider's physical/residential address is 226 Elwanda, Cape Girardeau, Missouri 63754.

2. On or about October 26, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a Uniform Application for Individual Insurance Producer License ("Application") from Schneider.

3. In the section of the Application headed "Background Information," Question # 1 asks, in part, "Have you ever been convicted of a crime, had a judgment withheld or

deferred, or are you currently charged with committing a crime? 'Crime' includes a misdemeanor, felony or a military offense."

4. Schneider answered "Yes" to Background Question # 1 and disclosed that he had been convicted of felony mail fraud in 1986. The conviction resulted from Schneider submitting inflated collateral reports to a bank which held his company's line of credit when he was employed as Operations Manager with Charter Finance Co.

5. On or about September 15, 1986, the United States Attorney for the Eastern District of Missouri, Southeastern Division, charged that Schneider, "did knowingly and willfully cause to be delivered by mail according to the direction thereon a promissory note under the name Joseph Umphrey as transmitted in mail matter addressed to Mercantile Business Credit, One Mercantile Center, St. Louis, Missouri, from Charter Finance, 616 Broadway, Cape Girardeau, Missouri. In violation of Title 18, United States Code, Section 1341." See Information, *United States of America v. Ebert E. "Butch" Schneider, Jr.*, Case No. S86-0028CR(D).

6. On or about October 20, 1986, Schneider pleaded guilty to one count of felony mail fraud, 18 U.S.C. 1341. See Judgment and Probation/Commitment Order, Case No. S86-0028CR(D). The Court sentenced Schneider to four years imprisonment. *Id.* Schneider was released from parole on December 13, 1990.

7. The Information and Judgment and Probation/Commitment Order for Case No. S86-0028CR(D) are incorporated by reference as though fully stated herein.

CONCLUSIONS OF LAW

8. Section 375.141.1, RSMo (Supp. 2009), 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:
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> * * *
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> (6) Having been convicted of a felony or crime involving moral turpitude;
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> * * *
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
>
> * * *

9. 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).

10. Mail fraud is a crime of moral turpitude. *Neibling v. Terry*, 177 S.W.2d 502, 503 (Mo. banc 1944); *Dir. of Ins. v. Jesus Soriano*, No. 04-0067 DI, (Mo. Admin. Hrg. Comm'n August 26, 2004) (examining cause to discipline insurance license after conviction under 18 U.S.C. 1341).

11. 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).

12. Schneider may be refused an insurance producer license pursuant to § 375.141.1(6), RSMo (Supp. 2009), because he pleaded guilty to a mail fraud in violation of 18 U.S.C. 1341, a felony, which is also a crime of moral turpitude. *Neibling v. Terry*, 177 S.W.2d 502, 503 (Mo. banc 1944); *Dir. of Ins. v. Jesus Soriano*, No. 04-0067 DI, (Mo. Admin. Hrg. Comm'n August 26, 2004) (examining cause to discipline insurance license after conviction under 18 U.S.C. 1341).

13. Schneider may be refused an insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2009), because he used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere. Schneider's felony guilty plea resulted from his work in a position of trust, operations manager for a finance company. Schneider admitted that his actions caused inflated financial figures to be submitted a financial institution that held his company's line of credit. Investors and the financial institution relied upon the Schneider's inflated financial figures. Information ¶ 9. Such conduct shows fraudulent, coercive, and dishonest practices and demonstrates incompetence, untrustworthiness and financial irresponsibility in the conduct of business.

14. Director has considered Schneider's history and all of the circumstances surrounding Schneider's Application for licensure and exercised his discretion in summarily refusing to grant Schneider's insurance producer license.

15. Granting Schneider's insurance producer license would not be in the public interest.

16. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license application of **Ebert E. Schneider, Jr.** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 3RD **DAY OF** MAY**, 2010.**

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 10th day of May, 2010, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail to:

Ebert E. Schneider, Jr.
P.O. Box 220
Jackson, Missouri 63755
Certified Mail No. 70070710000220552466

And

Ebert E. Schneider, Jr.
226 Elwanda
Cape Girardeau, Missouri 63754
Certified Mail No. 70041350000314135294

Kathryn Randolph