State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
	)	**Case No. 10-0407426C**
Kenneth L. Trice,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
7156 Jamieson Avenue	)	
Apartment 1W	)	
St. Louis, Missouri 63109	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On April 28, 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 Kenneth L. Trice. 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. Kenneth L. Trice ("Trice") is an individual residing in Missouri, whose mailing address of record is 7156 Jamieson Avenue, Apartment 1W, St. Louis, Missouri 63109. Trice was previously licensed as an insurance producer in Colorado.

2. On December 28, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic Uniform Application for Individual Insurance Producer License ("Application") from Trice.

3. In the Application section headed "Background Questions," Background Question # 1 asks, "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

4. Trice answered "Yes" to Background Question # 1 and disclosed two felony convictions in the state of Colorado that resulted from Trice's unauthorized use of

Occidental Life/Trans America Life Insurance Company bank drafts for payments to his creditors.

5. In approximately 1976, Trice was hired as a general agent for Occidental Life/Trans America Life Insurance Company in the Denver, Colorado area. Trice was given signing authority on the insurance company's bank account and provided a supply of bank drafts. Trice opened and furnished a "lavish" office in a "prime location of the city."[1] After accumulating considerable debt, Trice used the insurance company bank drafts to pay creditors without the insurance company's authorization. In 1979, according to Trice, the insurance company filed a formal complaint with the Colorado Division of Insurance and pursued criminal charges against Trice.

6. On or about November 28, 1980, Trice pleaded guilty to one count of felony theft in violation of C.R.S. 1973 18-4-401, as amended. Trice's guilty plea was accepted and Trice was sentenced to not less than five years, nor more than eight years and remanded to the county jail. In 1981, the court suspended the remainder of Trice's sentence, ordered that he be placed under probation, and pay $17,213.36 restitution. Trice completed probation in 1988 and, at that time, had paid approximately $7,200 in restitution. Trice failed to pay the remaining $10,013.36 restitution after he was released from probation. The court file in *Colorado v. Kenneth L. Trice*, Case Number 1980CR1372, is incorporated by reference as though fully stated herein.

7. On or about May 26, 1982, Trice pleaded guilty to one count of Criminal Attempt (To Commit Theft) in violation of C.R.S. 1973 18-2-101, as amended, a class five felony. The court sentenced Trice to the Colorado Department of Corrections for a term of four years, suspended the execution of sentence, and ordered that Trice be granted probation for four years. The court file in *Colorado v. Kenneth L. Trice*, Case Number 80CR869, is 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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> * * *
>
> (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

[1] Quoted text appears in a letter signed by Trice and dated December 28, 2009, that Trice attached to his Application.

conduct of business in this state or elsewhere;

* * *

9. In *Brehe v. Missouri Dep't. of Elementary & Secondary Educ.*, which involved an attempt to discipline a teacher's certificate under § 168.071, RSMo, for committing a crime involving moral turpitude, the court referred to three categories of crimes. The categories include:

   (1) crimes that necessarily involve moral turpitude (referred to in *Brehe* as "category 1" crimes);

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

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

   See *Brehe v. Missouri Dep't. of Elementary & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. 2007).

10. Category 1 crimes, since they necessarily involve moral turpitude, require no analysis beyond their elements to show moral turpitude; Category 3 crimes require some examination of the facts supporting the conviction in order to determine whether they involve moral turpitude. See *Brehe* at 725-727. Stealing is a Category 1 crime of moral turpitude. *State Bd. of Nursing v. Deborah Dann*, No. 09-0472 BN (Mo. Admin. Hrg. Comm'n. Sept. 14, 2009).

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. Trice may be refused an insurance producer license pursuant to § 375.141.1(6), RSMo (Supp. 2009), for having been convicted of two felonies in *Colorado v. Kenneth L. Trice*, Case Number 1980CR1372, and *Colorado v. Kenneth L. Trice*, Case Number 80CR869. Trice's felony convictions also constitute category 1 crimes of moral turpitude. *State Bd. of Nursing v. Deborah Dann*, No. 09-0472 BN (Mo. Admin. Hrg. Comm'n. Sept. 14, 2009).

13. Trice may be refused an insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2009), because his conduct while licensed as a Colorado insurance producer, felony convictions, and conduct following his release from probation evidence the use of fraudulent, coercive, or dishonest practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere. Trice was employed in a position of trust with a life insurance company. He was given signing authority on the company's bank

account and provided with a supply of bank drafts. He opened and furnished a lavish office and, without the company's authorization, used insurance company funds to pay his creditors. After the court ordered that Trice pay restitution, he ceased payments once released from probation because the company made no further demands. Such conduct evidences fraudulent, coercive, and dishonest practices, and demonstrates incompetence, untrustworthiness, and financial irresponsibility in the conduct of business.

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

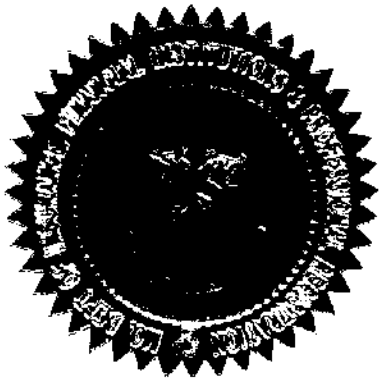
15. Granting Trice's insurance producer license would not be in the public interest.

16. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license application of **Kenneth L. Trice** 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 No. 70041350000314135300.

Kenneth L. Trice
7156 Jamieson Avenue
Apartment 1W
St. Louis, Missouri 63109

Kathryn Randolph