State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Jordan Blake Barrett,	)	**Case No. 12-1105579C**
Applicant.	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On November 19, 2012, Carolyn H. Kerr, Legal 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 Jordan Blake Barrett. 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 order:

FINDINGS OF FACT

1. Jordan Blake Barrett ("Barrett") is an individual residing in Missouri.

2. On or about May 22, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Barrett's Uniform Electronic Application for Individual Producer License ("Application").

3. In his Application, Barrett listed his residential, business and mailing address as 5371 E. Johannsen Ln., Sturgeon, Missouri 65284.

4. In the section of the Applications headed "Background Questions," Background Question No. 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. Barrett answered "Yes" to Background Question No. 1.

6. Barrett provided the following documents with his Application relating to his answer to Background Question No. 1:

   a. Two hand-written letters dated May 21, 2012, describing his September 2011 and April 2012 charges; and

   b. A copy of the two Complaints filed against him in Boone County, Missouri in *State of Missouri v. Jordan Blake Barrett*, Case No. 11BA-CR05037 and *State of Missouri v. Jordan Blake Barrett*, Case No.12BA-CR01256.

7. A Complaint, filed in the Boone County Circuit Court, Missouri, on December 9, 2011, charged Barrett with one count of the Class C Felony of Possession of a Controlled Substance, in violation of § 195.202, RSMo. *State v. Barrett*, Case No. 11BA-CR05037.

8. A Substitute Information was filed on June 20, 2012, modifying the charge against Barrett to the Class A Misdemeanor of Possession of a Controlled Substance, in violation of § 195.202, RSMo. *State v. Barrett*, Case No. 11BA-CR05037.

9. Section 195.202, RSMo (2011), states as follows:

> 1. Except as authorized by sections 195.005 to 195.425*, it is unlawful for any person to possess or have under his control a controlled substance.
>
> 2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana or any synthetic cannabinoid is guilty of a class C felony
>
> 3. An y person who violates this section with respect to not more than thirty-five grams of marijuana or any synthetic cannabinoid is guilty of a class A misdemeanor.

10. On June 20, 2012, Barrett entered a guilty plea to the charge outlined in the Substitute Information. The Boone County Circuit Court, Missouri accepted Barrett's plea and entered a judgment against him. The court sentenced Barrett to 30 days in the Boone County Jail, but suspended the execution of that sentence, placing Barrett on two years of unsupervised probation with conditions. Barrett's probation will end on June 20, 2014. *State v. Barrett*, Case No. 11BA-CR05037.

11. A Complaint, filed in Boone County Circuit Court on April 9, 2012, charged Barrett with one count of the Class C Felony of Distribution of a Controlled Substance, in violation of § 195.211, RSMo. *State v. Barrett*, Case No. 12BA-CR01256.

12. An Information was later filed on June 21, 2012, against Barrett charging him with one count of the Class C Felony of Distribution of a Controlled Substance, in violation of §195.211, RSMo. *State v. Barrett*, Case No. 12BA-CR01256-01.

13. Section 195.211, RSMo (2011), states, in part, as follows:

> 1. Except as authorized by sections 195.005 to 195.425 and except as provided in section 195.222, it is unlawful for any person to distribute, deliver, manufacture, produce or attempt to distribute, deliver, manufacture or produce a controlled substance or to possess with intent to distribute, deliver, manufacture, or produce a controlled substance.

* * *

4. An y person who violates this section with respect to distributing or delivering not more than five grams of marijuana is guilty of a class C felony.

14. On July 23, 2012, Barrett entered a guilty plea to the charge outlined in the Information. The Boone County Circuit Court accepted Barrett's plea and on September 4, 2012, entered a judgment against him. The court sentenced Barrett to five years in the Missouri Department of Corrections, but suspended the execution of that sentence, placing Barrett on five years of supervised probation with conditions. Barrett's probation will end on September 4, 2017. *State v. Barrett*, Case No. 12BA-CR01256-01.

CONCLUSIONS OF LAW

15. Section 375.141 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:

* * *

(6) Having been convicted of a felony or crime involving moral turpitude[.]

16. 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).

17. In *Brehe v. Missouri Dept. of Elementary & Secondary Education*, the Missouri Court of Appeals referred to three categories of crimes, the categories being drawn from 21 Am.Jur.2d. Criminal Law § 22 (1998):

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

18. Category 1 crimes require only a showing of a conviction or guilty plea. *Id.*

19. A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruiett v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972). "A licensee's guilty plea may lead to collateral estoppel, a doctrine that precludes a licensee from denying charges against him." *Stanton*, Mo. Admin. No. 05-1661BN.

20. Convictions for the possession and distribution of narcotics pursuant to §§ 195.202 and 195.211, respectively, are crimes of moral turpitude. *Id.*, citing *In re Shunk*, 847 S.W.2d 789, 791-792 (Mo. banc 1993).

21. 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. 1984).

CAUSE FOR ORDER
REFUSING TO ISSUE INDIVIDUAL PRODUCER LICENSE

22. The Director may refuse to issue an insurance producer license to Barrett pursuant to § 375.141.1(6) because he was convicted of the Class C Felony of Distribution of a Controlled Substance.

23. The Director may refuse to issue an insurance producer license to Barrett pursuant to § 375.141.1(14) because the crimes of possession of a controlled substance, in violation of § 195.202, RSMo, and distribution of a controlled substance, in violation of § 195.211, RSMo, are crimes of moral turpitude.

24. Therefore, in applying his discretion, the Director has considered all of the facts and circumstances surrounding Perrot's Application for licensure and, for all of the reasons given in this Order, exercises his discretion in refusing to grant Perrot's license.

25. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of JORDAN BLAKE BARRETT is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF NOVEMBER, 2012.

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. Pursuant to 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 27th day of November, 2012, a copy of the foregoing notice and order was served upon Jordan Blake Barrett in this matter by U.S. mail, postage pre-paid and by certified mail at the following address:

Jordan Blake Barrett
5371 E. Johannsen Ln.
Sturgeon, Missouri 65284

Certified Mail # 7009 3410 0001 9255 5948

Kathryn Randolph

Kathryn Randolph
Missouri Department of Insurance,
Financial Institutions and Professional Registration
P.O. Box 690
Jefferson City, Missouri 65102
Telephone: (573) 751-2619