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

IN THE MATTER OF:	)	
	)	
Cathy Thelen,	)	Case No. 100208200C
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
742 Springs Circle	)	
Liberty, Missouri 64068	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On March 8, 2010, 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 Cathy Thelen ("Thelen"). 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. Cathy Thelen is a Missouri resident with an address of 742 Springs Circle, Liberty, Missouri 64068.

2. On or about August 11, 2008, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Thelen's 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. Thelen answered "Yes" to Background Question #1.

5. In explanation to her "Yes" answer to Background Question #1, Thelen stated:

   I went to pick my brother up from local tavern. The tavern was quiet upon my arrival. Within moments the police walked in asking for my brother. I told him to stay seated. I stood and asked them what they needed and began to explain that I was there to take him home. Much to my surprise, I was arrested and charged with disorderly and obstruction.

6. On July 27, 2005, in *State v. Cathy R. Thelen*, in the Circuit Court of Clay County, Missouri, Case Number 7CR105000308, Thelen plead guilty to Possession Of Up To 35 Grams Marijuana and received a suspended imposition of sentence and two years probation. On January 31, 2007, Thelen's probation was revoked and she was sentenced to 90 days in the Clay County Jail.

7. On March 26, 2009, Thelen appeared for a subpoena conference at the offices of the Department in the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri 65109.

8. At the March 26, 2009 subpoena conference, Thelen stated she didn't disclose the Possession Of Up To 35 Grams Marijuana charge on her Application because she thought that charge had been dropped. Thelen admitted at the subpoena conference that her probation was revoked because a drug test came back positive for marijuana in her system.

CONCLUSIONS OF LAW

9. Section 375.141, RSMo (Supp. 2009) 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;
> >
> > . . .
> >
> > (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[.]

10. 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.*

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. Thelen may be refused an insurance producer license based upon § 375.141.1(6), RSMo (Supp. 2009), for her July 27, 2005 guilty plea to Possession Of Up To 35 Grams of Marijuana, which is a crime of moral turpitude, in the Circuit Court of Clay County, Missouri, in *State of Missouri v. Cathy R. Thelen*, Case Number 7CR105000308, and the subsequent revocation of her probation on January 31, 2007, and sentence of 90 days in the Clay County Jail.

13. Thelen's explanation to the Department for why she did not disclose her Possession Of Up To 35 Grams Marijuana conviction is not credible, in that someone is unlikely to believe a charge is dropped after having probation revoked for that charge and being sentenced to 90 days in jail. The most likely explanation for Thelen's failure to disclose this conviction on her Application is that she intentionally failed to disclose her criminal history in order to improve her chances of succeeding with her Application.

14. Thelen may be refused an insurance producer license based upon § 375.141.1(1), RSMo (Supp. 2009), for her failure to disclose her guilty plea to Possession Of Up To 35 Grams Marijuana and the subsequent revocation of her probation on her Application, and by doing so, intentionally provided materially incorrect, misleading, incomplete, or untrue information in a license application.

15. Thelen may be refused an insurance producer license based upon § 375.141.1(3), RSMo (Supp. 2009), for her failure to disclose her guilty plea to Possession Of Up To 35 Grams Marijuana and the subsequent revocation of her probation on her Application, and by doing so, attempted to obtain a license through material misrepresentation or fraud.

16. In applying his discretion, the Director has considered the history of Thelen and all of the circumstances surrounding Thelen's Application. Thelen's guilty plea to a crime of moral turpitude and the subsequent violation of her probation and the failure to disclose her complete criminal history on her Application raises questions of Thelen's ability to comply with Missouri law and whether she 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 Thelen.

17. This order is in the public interest.

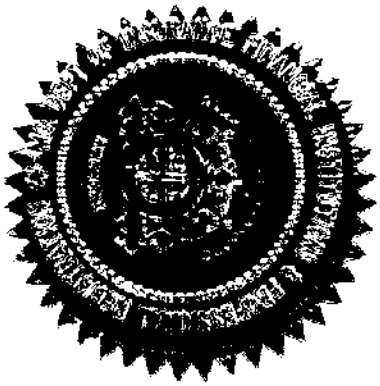
ORDER

IT IS THEREFORE ORDERED that issuance of the insurance producer license of Applicant Cathy Thelen is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 12TH DAY OF MARCH, 2010.

JOHN M. HUFF
DIRECTOR



NOTICE

TO: Cathy Thelen 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. 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 6th day of August, 2010, duplicate original of the foregoing Order and Notice was served upon the Cathy Thelen in this matter by priority mail No. 03082690000017296748.

Cathy Thelen
1601 NE Lakeshore Drive
Lees Summit MO 64086

Kathryn Randolph
Kathryn Randolph