State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
	)	**Case No. 12-0824502C**
Donald F. Clark, Jr.,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
16735 W. 155th Terrace	)	
Olathe, Kansas 66062 -6745	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On March 1, 2013, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Donald F. Clark, Jr. a non-resident insurance producer license. 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. Donald F. Clark, Jr. ("Clark") is an individual residing in Kansas, whose mailing address of record is 16735 W. 155th Terrace, Olathe, Kansas 66062.

2. On or about April 19, 2012, the Department of Insurance, Financial Institutions, and Professional Registration ("Department") received an electronic non-resident insurance producer license application ("Application") from Clark.

3. The "Applicant's Certification and Attestation" section of the Application, states, in relevant part:

> 1. I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

4. Clark signed the "Applicant's Certification and Attestation" section of the Application.

5. Background Question No. 1 of the Application asks:

> 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. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.
>
> If you answer yes, you must attach to this application:
> a) a written statement explaining the circumstances of each incident,
> b) a copy of the charging document, and
> c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

6. Clark also attached to his Application an Amended Complaint in *State of Kansas v. Donald Frederick Clark Jr.*, Johnson Co. Dist. Ct., Case No. 09CR2758, charging Clark with aggravated endangerment of a child, aggravated battery, driving while under the influence of alcohol, unlicensed driving, no vehicle registration, and failure to display insurance. *State of Kansas v. Donald Frederick Clark Jr.*, Johnson Co. Dist. Ct., Case No. 09CR2758.

7. On July 16, 2012, the Department received records from the District Court of Johnson County, Kansas, regarding Case No. 09CR02758. According to the 2009 Kansas Sentencing Guidelines Journal Entry of Judgment, Clark pleaded guilty on December 17, 2010, to Aggravated Endangerment Of A Child, a severity level 9 person felony, in violation of K.S.A. 21-3608(a), and Driving While Under The Influence Of Alcohol, a Class B non-person Misdemeanor, in violation of K.S.A. 8-1567. The court sentenced Clark to six months in jail on count one, but suspended the execution of sentence and placed him on 12 months' probation with an order to serve 30 days in county jail, and pay a $500.00 fine. Additionally, the court sentenced Clark to 180 days in jail on count two, but suspended the execution of sentence and placed him on 12 months' probation. *State of Kansas v. Donald Frederick Clark Jr.*, Johnson Co. Dist. Ct., Case No. 09CR2758.

CONCLUSIONS OF LAW

8. Section 375.141, RSMo[1] 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[.]

9. A plea of guilty is an admission as to the facts alleged in the information. *See, e.g., Wallace v. State*, 308 S.W.3d 283, 286-7 (Mo. App. 2010); *Director of Public Safety v. Graham*, No. 08-1604 PO (Mo. Admin. Hrg. Comm'n April 9, 2009) (a plea of guilty is evidence of the conduct charged).

10. The principal purpose of § 375.141 is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. 1984).

11. Clark was convicted of Felony Aggravated Endangerment Of A Child, which is a ground to refuse Clark a non-resident insurance producer license pursuant to § 375.141.1(6). *State of Kansas v. Donald Frederick Clark Jr.*, Johnson Co. Dist. Ct., Case No. 09CR2758.

12. Aggravated Endangerment of a Child is a crime of moral turpitude. *See Brehe v. Mo. Dep't of Elementary & Secondary Educ.*, 213 S.W.3d 720, 725 (Mo. App. 2007) (stating that first degree child endangerment is a Class 1 crime involving moral turpitude). Therefore, grounds exist to refuse Clark a non-resident insurance producer license pursuant to § 375.141.1(6).

13. Granting Clark a non-resident insurance producer license would not be in the interest of the public because he has been convicted of a felony and a crime of moral turpitude. Therefore, the Director, having considered Clark's history and all of the circumstances surrounding Clark's Application, exercises his discretion to refuse Clark a non-resident insurance producer license.

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[1] All statutory references are to the Revised Statutes of Missouri (Supp. 2012) unless otherwise noted.

14. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license of **Donald F. Clark, Jr.** is hereby **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 6TH **DAY OF** MARCH **, 2013.**

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 8th day of March, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular mail and certified mail at the following address

Donald F. Clark, Jr.
16735 W. 155th Terrace
Olathe, KS 66062

Certified No. 7009 3410 9255 6020

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