State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
DALE GEORGE,	)	**Case No. 130905519C**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On September 20, 2013, the Consumer Affairs Division ("Division") submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Dale George. 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. Dale George ("George") is a Missouri resident with a residential address of 203 N. Joplin Street, Joplin, Missouri 64801.

2. On or about June 4, 2013, George submitted his electronic Uniform Application for Individual Producer License ("Application"), along with attachments, to the Department of Insurance, Financial Institutions and Professional Registration ("Department").

3. Background Question No. 1 of the Application asks, in relevant part, as follows:

   > Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

4. George answered "Yes" in response to Background Question No. 1.

5. As part of his Application, George submitted attachments which showed that he had pleaded guilty to two criminal offenses in the state of Massachusetts, as follows:

   a. On or about July 13, 2005, George pleaded guilty in the Wrentham District Court, Wrentham, Massachusetts, to Indecent Assault and Battery on a Child Under the Age of 14 under M.G.L.A. 265, § 13B, and Assault and Battery under M.G.L.A. 265, § 13A(a), based upon incidents occurring on or about October 1, 2003. The court sentenced

him to probation. *State v. Dale Eugene George*, Wrentham, Massachusetts Dist. Ct., Case No. 0457CR001356.[1]

b. Under Massachusetts law, Indecent Assault and Battery on a Child Under the Age of 14 is a felony, as it is a crime "punishable by imprisonment in the state prison for not more than 10 years." M.G.L.A. 265 § 13B; *see also* M.G.L.A. 274 § 1 ("A crime punishable by death or imprisonment in the state prison is a felony. All other crimes are misdemeanors.").[2]

CONCLUSIONS OF LAW

1. Section 375.141.1 RSMo Supp. 2012[3] 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:
>
> * * *
>
> (6) Having been convicted of a felony or crime involving moral turpitude[.]

2. "'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. banc 1985), *quoting In re Wallace*, 19 S.W.2d 625 (Mo. banc 1929).

3. 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. E.D. 1984).

4. George may be refused an individual resident insurance producer license under § 375.141.1(6) because he has been convicted of a felony, specifically, Indecent Assault and Battery on a Child Under the Age of 14. *State v. George*, Case No. 0457CR001356.

5. George may also be refused an individual resident insurance producer license under § 375.141.1(6) because he has been convicted of a crime involving moral turpitude.

---

[1] Because of the conviction of Indecent Assault and Battery on a Child Under the Age of 14, George is required to register, and is in fact registered, as a sex offender in Missouri. *See* § 589.400, RSMo Supp. 2012.

[2] Assault and battery under M.G.L.A. 265 §13A(a), the other offense that George pleaded guilty to, is a misdemeanor as it is punishable "by imprisonment for not more than 2 ½ years in a house of correction."

[3] All further statutory references are to RSMo Supp. 2012 unless otherwise noted.

a. Indecent Assault and Battery, the felony to which George pleaded guilty, has been defined by Massachusetts courts as follows: "'essentially an act or series of acts which are fundamentally offensive to contemporary moral values....[I]t is behavior which the common sense of society would regard as immodest, immoral and improper.'" *Commonwealth v. Miozza*, 854 N.E.2d 1258, 1262 (Mass. App. Ct. 2006), *quoting Commonwealth v. Mosby*, 567 N.E.2d 939 (Mass. App. Ct. 1991), *quoting Commonwealth v. Perretti*, 477 N.E.2d 1061 (Mass. App. Ct. 1985).

b. Indecent Assault and Battery is a crime of moral turpitude because it is "contrary to the accepted rule of right" and "good morals" as it involves an offensive touching of a child that contravenes established norms. *See In re Frick*, 694 S.W.2d at 479.

6. The Director has considered George's history and all of the circumstances surrounding George's Application. George is a convicted felon which, by itself, is grounds to refuse to issue him an insurance producer license. Beyond that, however, George pleaded guilty to a crime involving moral turpitude, based upon an indecent touching of a child. Conduct of this nature, by its very definition, involves moral turpitude, which is also a ground for refusal. Issuing an insurance producer license given these facts would not be in the interest of the public. Accordingly, the Director exercises his discretion to refuse to issue an individual resident insurance producer license to George.

7. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the individual resident insurance producer license application of **Dale George** is hereby REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 20th DAY OF SEPTEMBER, 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 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 23rd day of September, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular mail and by UPS at the following address:

Dale George
203 N. Joplin Street
Joplin, Missouri 64801

Tracking No. 1Z0R15W84292257716

Kathryn Randolph

Kathryn Randolph, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.randolph@insurance.mo.gov