State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
ELLERY JAMES MORELAND,	)	**Case No. 150820403C**
	)	
Renewal Applicant.	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On September 3, 2015, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to renew the non-resident insurance producer license of Ellery James Moreland. After reviewing the Petition, 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. Ellery James Moreland ("Moreland") is a Florida resident with residential, business, and mailing addresses of record of 16602 Blenheim Drive, Lutz, Florida 33549.

2. On or about September 9, 2013, the Department electronically received Moreland's Uniform Application for Individual Producer License/Registration ("2013 Application").

3. Moreland answered "No" to Background Question 1 of the 2013 Application which asked, in relevant part:

> Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?
>
> * * *
>
> "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 no contest, 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,
> c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

4. Moreland did not attach any documents to his 2013 Application.

5. Moreland accepted the "Applicant's Certification and Attestation" section of the 2013 Application which provided, in relevant part:

> I hereby certify that, under penalty of perjury, 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.

6. Relying on Moreland's representations on his 2013 Application, on September 10, 2013, the Department issued Moreland a non-resident insurance producer license, number 8299945.

7. On or about August 4, 2015, the Department electronically received Moreland's Uniform Application for Individual Producer License Renewal/Continuation ("2015 Application").

8. Moreland answered "No" to Background Question 2 of the 2015 Application which asked, in relevant part:

> Have you been named or involved as a party in an administrative proceeding ... regarding any professional or occupational license or registration, which has not been previously reported to this insurance department? "Involved" means having a license censured, suspended, revoked, canceled, [or] terminated[.]
>
> * * *
>
> If you answer yes, you must attach to this application:
> a) a written statement identifying the type of license and explaining the circumstances of each incident,
> b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
> c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

9. Moreland did not attach any documents to his 2015 Application.

10. Moreland accepted the "Applicant's Certification and Attestation" section of the 2015 Application which provided, in relevant part:

> I hereby certify that, under penalty of perjury, 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.

11. On April 22, 2015, the North Dakota Insurance Commissioner issued his Findings of Fact, Conclusions of Law, and Default Order revoking Moreland's North Dakota insurance producer license for his failure to disclose his criminal history on his initial 2013 North Dakota insurance producer license application (the "North Dakota Order").

12. Specifically, the North Dakota Order found Moreland violated N.D. CENT. CODE § 26.1-26-15. *In the Matter of Ellery J. Moreland, NPN 3560023*, N.D. Ins. Dep't, Case No. AG-15-521.

13. The terms of the North Dakota Order were "effective after the time for filing a motion to vacate a Default Order pursuant to N.D.C.C. § 28-32-30 expires." *Id.*

14. On or about April 22, 2015, the North Dakota Insurance Department served Moreland with the North Dakota Order by United States Postal Service certified mail, which was delivered May 1, 2015.

15. Moreland did not file a written motion to vacate the North Dakota Order within seven days after service, as allowed by N.D. CENT. CODE § 28-32-30. Therefore, the North Dakota administrative action reached final disposition on or about April 30, 2015.

16. Moreland never reported to the Director the North Dakota Insurance Department's administrative action against him.

17. After the North Dakota Order was issued, Special Investigator Jennifer Zagorac of the Department's Consumer Affairs Division conducted an investigation and determined that, contrary to Moreland's representation on his 2013 Application regarding his criminal history:

    a. On August 7, 1992, the Hillsborough County, Florida Circuit Court tried Moreland and found him guilty of Repeated Telephone Calls, a Misdemeanor in the Second Degree, in violation of FLA. STAT. § 365.16(d).[1] *Florida v. Moreland*, Case No. 92-CM-007255-A. The court withheld adjudication and ordered Moreland to have no contact with the victim. *Id.*

[1] All criminal statutory references are to those contained in the version of the Florida Statutes pursuant to which each judgment was rendered.

b. On June 18, 1996, the Hillsborough County, Florida Circuit Court tried Moreland and found him guilty of Resist[ing] Arrest Without Violence, a Misdemeanor in the First Degree, in violation of FLA. STAT. § 843.02. *Florida v. Ellory* [sic] *James Moreland*, Case No. 95-CF-013657-A. The court withheld adjudication and ordered Moreland to complete six months' supervised probation, complete an anger management course or church counseling, and not possess any firearms or weapons during the period of his probation. *Id.*

c. On June 25, 1997, the Alachua County, Florida Circuit Court tried Moreland and found him guilty on two counts of Battery, a Misdemeanor in the First Degree, in violation of FLA. STAT. § 784.03. *Florida v. Ellery Moreland*, Case No. 96-MM-008944-A. The court withheld adjudication and ordered Moreland to undergo supervised probation for one year, or until completion of a batterers' intervention program. *Id.*

d. On March 16, 1998, the Hillsborough County, Florida Circuit Court tried Moreland and found him guilty of Soliciting Another to Commit [Prostitution], a Misdemeanor in the Second Degree, in violation of FLA. STAT. § 796.07(2)(f). *Florida v. Ellery James Moreland*, Case No. 97-CM-026944-A.

e. On November 6, 2003, the Hillsborough County, Florida Circuit Court tried Moreland and found him guilty of Trespass in [an] Unoccupied Structure or Conveyance, a Misdemeanor in the Second Degree, in violation of FLA. STAT. § 810.08(1). *Florida v. Ellery James Moreland*, Case No. 03-CM-025046-A. The court withheld adjudication and ordered Moreland to avoid the site of his offense. *Id.*

18. It is inferable, and hereby found as fact, that Moreland answered "No" to Background Question 1 of the 2013 Application in order to misrepresent to the Director his criminal history and, accordingly, to increase the chance that the Director would approve his 2013 Application and issue Moreland a non-resident insurance producer license.

19. It is inferable, and hereby found as fact, that Moreland answered "No" to Background Question 2 of the 2015 Application in order to misrepresent to the Director his history of professional or occupational license discipline and, accordingly, to increase the chance that the Director would approve his 2015 Application and renew Moreland's non-resident insurance producer license.

CONCLUSIONS OF LAW

20. Section 375.141, RSMo (Supp. 2013)[2] provides, in relevant 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;
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud; [or]
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]
>
> * * *
>
> 6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

21. N.D. CENT. CODE § 26.1-26-15 provides:

> An applicant for any license under this chapter must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation.

22. N.D. CENT. CODE § 28-32-30.2 provides, in relevant part:

> Within seven days after service of the default notice, order, and grounds, the party against whom default was ordered may file a written motion requesting that the default order be vacated and stating the grounds relied upon.

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[2] All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

23. "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).

24. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(1) because Moreland intentionally provided materially incorrect, misleading, incomplete, or untrue information in the 2013 Application by falsely answering "No" to Background Question 1 thereof.

25. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(1) because Moreland intentionally provided materially incorrect, misleading, incomplete, or untrue information in the 2015 Application by falsely answering "No" to Background Question 2 thereof.

26. Each of Moreland's false answers to the Background Questions of the 2013 Application and 2015 Application constitutes a separate and sufficient cause for the Director to refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(1).

27. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(2) because Moreland violated an insurance law, specifically § 375.141.6, by failing to report to the Director within thirty days of its final disposition the North Dakota Insurance Department's administrative action against him. *In the Matter of Ellery J. Moreland, NPN 3560023*, N.D. Ins. Dep't, Case No. AG-15-521.

28. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(2) because Moreland violated an insurance law, specifically N.D.C.C. § 26.1-26-15, as determined by the North Dakota Insurance Commissioner. *In the Matter of Ellery J. Moreland, NPN 3560023*, N.D. Ins. Dep't, Case No. AG-15-521.

29. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(3) because Moreland obtained his non-resident insurance producer license through material misrepresentation or fraud by falsely answering "No" to Background Question 1 of the 2013 Application in order to misrepresent to the Director his criminal history.

30. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(3) because Moreland attempted to obtain renewal of his non-resident insurance producer license through material misrepresentation or fraud by falsely answering "No" to Background Question 2 of the 2015 Application in order to misrepresent to the Director his history of professional or occupational license discipline.

31. Each of Moreland's false answers to the Background Questions of the 2013 Application and 2015 Application constitutes a separate and sufficient cause for the Director to refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(3).

32. The Director may refuse to renew Moreland's non-resident insurance producer license pursuant to § 375.141.1(9) because Moreland's North Dakota insurance producer license was revoked.

33. The Director has considered Moreland's history and all of the circumstances surrounding Moreland's 2015 Application, including the infirmities of his 2013 Application. Moreland obtained an insurance producer license in 2013 from both Missouri and North Dakota through material misrepresentation or fraud. Moreland continues to lie to the Department on his renewal application when he fails to disclose the administrative action by North Dakota revoking his license. Renewing Moreland's non-resident insurance producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to renew Moreland's non-resident insurance producer license.

34. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license renewal application of **Ellery James Moreland** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 4TH **DAY OF** SEPTEMBER, **2015.**

JOHN M. HUFF, Director
Missouri Department of Insurance, Financial Institutions and Professional Registration

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 4th day of September, 2015, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Ellery James Moreland
16602 Blenheim Drive
Lutz, Florida 33549-6812

No. 1Z0R15W80399840244

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