State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Jeffrey Lewis Wilson,	)	Case No. 11-0223246C
	)	
Applicant.	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On or about May 19, 2011, Kristen E. Paulsmeyer, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license of Jeffrey Lewis Wilson. 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 summary order:

FINDINGS OF FACT

1. Jeffrey Lewis Wilson ("Wilson") is an individual residing in Missouri.

2. On or about June 5, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") initially received Wilson's Uniform Application for Individual Insurance Producer License ("Application") which was supplemented by Wilson on June 29, 2009.

3. In his Application, Wilson listed his residential and mailing address as 1828 Cullera Ct., St. Louis, Missouri, 63138.

4. Background Question No. 1 of the Application asks whether the applicant has ever been convicted of a crime, had a judgment withheld or deferred or is currently charged with committing a crime.

5. Wilson answered "Yes" to Question No. 1.

6. The Application contains the following instruction:

> If you answered yes, you must attach to this application: a) a

written statement explaining the circumstances of each incident, b) a certified copy of the charging documents c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

7. In response, Wilson stated the following, in part:

> I was convicted in 1989 on nov. 15 for stealing over 150.00. I was sentence to 3 yrs in prison but I only serve 7 month and was on parole for 2yrs. And 7 months. I was released from parole on nov 15, 1992 with out any violation as well. I have been a hard worker and a good father. I raised 2 kids, and in march 2003 I was convicted for failure to return a rental car. no jail time but I got 5 yrs probation I was release from dept of correction of Missouri on march 2008 . I had rented a car from alamo but my credit card was maxed out and they call for me to return it I need to keep the car longer to pick my son up in tenn . And I told them but when my phone was cut off they report the car stolen I know I made a dumb decision and I regret it but I did not think would happen. Once the DA found out I had a record they only gave me probation if I took the conviction! The car was return to them . I just hope the dept of insurance will allow to further my income growth and become a insurance agent ! from aug. 1990 to October 1999 I was in the automobile business I was for landmark Chrysler and king dodge and king chrysle-jeep as well in st louis mo. I only have convictions in the state of Missouri ! [sic]

8. Background Question No. 4 of the Application asks the applicant, "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?"

9. Wilson answered "Yes" to Question No. 4.

10. The Application contains the following instruction: "If you answer yes, identify the jurisdiction(s)."

11. In response, Wilson stated, "State of Missouri & US Government SEE Enclosed Sheet". In the enclosure, Wilson stated the following, in part:

> I have past taxes problems that I have not file nor with state of Missouri nor the federal government. They are from 1998 to 2007 but I am in the process of getting them prepared and sent

> off . I am going thur. a divorce and the reason I did not file was I not responsilble but I had to care for my mother and father who s both sick for some years. My mother past in 1999 and my father in 2001. My jobs have not been very good lately but for this year work has been good iam trying to get my insurance license so I can get married and help my children to finish school and help my ex wife with my son for child support too I enjoy working with public. I was in the automobile sales form 1990 to 1999. plz help me attain my license I have work out agreement with state nor government concerning my taxes but I am in the process of getting this done this year. Will have all of my taxes prepared and sent off and work out a payment plan to my past due taxes. [sic]

12. On September 9, 1989, by Indictment in the Circuit Court of St. Louis County, Missouri, Wilson was charged with the Class D Felony of Attempted Stealing Over $150.00 by Deceit in violation of § 564.011, in that between May 11, 1989 and May 16, 1989 Wilson ordered a camera, video cassette recorders, typewriter, stereo system, telephones, phone answering machines and televisions from Mobil Oil Company in the name of Monsanto Corporation when he had no authority to do so and such conduct was a substantial step toward the commission of the crime stealing over $150.00 by deceit and was done for the purpose of committing such stealing over $150.00 by deceit.

13. On or about November 16, 1989, Wilson pleaded guilty to the Class D Felony of Attempted Stealing Over $150.00 by Deceit, and the court sentenced Wilson to three years in the custody of the Department of Corrections and a judgment in the amount of $46.00 to be entered against Wilson. *State of Missouri v. Jeffrey L. Wilson*, Case No. 599905 (21F89-3097).

14. In 1993, in the Circuit Court of St. Louis County, Missouri, Wilson was charged by Information with the Class C Misdemeanor of Assault in the Third Degree, in violation of § 565.070, in that on or about March 7, 1993, Wilson knowingly caused physical contact with Moneyell Wilson knowing that such person would regard such contact as offensive or provocative.

15. On or about October 14, 1993, Wilson pleaded guilty to the Class C Misdemeanor of Assault in the 3rd degree committed on April 15, 1993 [sic], and the court sentenced Wilson to 15 days in the custody of the Department of Justice Services of St. Louis County. The court suspended execution of sentence and placed Wilson on probation for one year and ordered Wilson to pay court costs and $10.00 Crime Victims Compensation Judgment. *State of*

Missouri v. Jeffrey Wilson, Case No. 93CR-001673.

16. Wilson failed to disclose the 1993 assault charge on the Application.

17. In 2002, in the Circuit Court of Perry County, Missouri, Wilson was charged by Amended Information with the Class C Felony of Failure to Return Rented Personal Property in violation of § 578.150, in that on or about July 22, 2002, Wilson having signed a written agreement for the rental of a 2002 Mitsubishi Lancer motor vehicle with Alamo Rent-A-Car, purposely failed to return the property at 10124 Natural Bridge, St. Louis, Missouri by Monday July 8, 2002 which place and time were specified in the written agreement for the return of the property and that Wilson did so for the purpose of depriving Alamo Rent-A-Car thereof, the value of which was at least $500.00. *State of Missouri v. Jeffrey Lewis Wilson,* Case No. 02CR737087-01.

18. On or about March 28, 2003, Wilson pleaded guilty to the Class C Felony of Failure to Return Rented Personal Property, and the court sentenced him to four years in the custody of Missouri Department of Corrections. The court suspended execution of sentence and placed Wilson on five years probation. *State of Missouri v. Jeffrey Lewis Wilson*, Case No. 02CR737087-01.

19. By letter dated July 10, 2009, United States Mail, postage prepaid, the Division of Consumer Affairs ("Division") sent Wilson written correspondence to the address provided on the Application. The Division requested Wilson provide written confirmation from the IRS and the Missouri Department of Revenue regarding the repayment arrangement for his delinquent taxes as well a copy of the child support payment history from the State.

20. Although Wilson corresponded by email and telephone with the Division, he did not provide the documentation originally requested in the July 10, 2009 correspondence and did not demonstrate reasonable justification for the delay in producing the requested documentation.

CONCLUSIONS OF LAW

21. Section 375.141 RSMo (Supp. 2010) 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;

(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;

* * *

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

22. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division provides:

> (A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay

23. Section 564.011 RSMo (1986) states:

> 1. A person is guilty of attempt to commit an offense when, with the purpose of committing the offense, he does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.
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> 2. It is no defense to a prosecution under this section that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.
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> 3. Unless otherwise provided, an attempt to commit an offense is a:

(1) Class B felony if the offense attempted is a class A felony.

(2) Class C felony if the offense attempted is a class B felony.

(3) Class D felony if the offense attempted is a class C felony.

(4) Class A misdemeanor if the offense attempted is a class D felony.

(5) Class C misdemeanor if the offense attempted is a misdemeanor of any degree.

(Bold emphasis in original.)

24. Section 565.070 RSMo (1986) states:

1. A person commits the crime of assault in the third degree if:

(1) He attempts to cause or recklessly causes physical injury to another person; or

(2) With criminal negligence he causes physical injury to another person by means of a deadly weapon; or

(3) He purposely places another person in apprehension of immediate physical injury; or

(4) He recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) He knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

2. Assault in the third degree is a class A misdemeanor unless committed under subdivision (3) or (5) of subsection 1 in which case it is a class C misdemeanor.

25. Section 578.150 RSMo (Supp. 2002) states, in part:

1. A person commits the crime of failing to return leased or rented property if, with the intent to deprive the owner thereof,

> he purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property. In addition, any person who has leased or rented personal property of another who conceals the property from the owner, or who otherwise sells, pawns, loans, abandons or gives away the leased or rented property is guilty of the crime of failing to return leased or rented property. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.
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> * * *
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> 5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to section 569.100 or 569.120, in addition to being in violation of this section.
>
> * * *
>
> 7. Failure to return leased or rented property is a class A misdemeanor unless the property involved has a value of five hundred dollars or more, in which case failing to return leased or rented property is a class C felony.

26. Moral turpitude is 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)). In *Brehe v. Missouri Dept. of Elementary and Secondary Education*, the court referred to three classifications of crimes: (1) crimes that necessarily involve moral turpitude, such as frauds (Category 1 crimes); (2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude," such as illegal parking (Category 2 crimes); and (3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily, such as willful failure to pay income tax or refusal to answer questions before a congressional committee

(Category 3 crimes). 213 S.W.3d 720, 725 (Mo. App. W.D. 2007).

27. In *State Board of Nursing v. Harmon,* the Administrative Hearing Commission found that stealing is a Category 1 crime. No. 10-1224 BN (Mo. Admin. Hrg. Comm'n, February 18, 2011). An essential element of stealing is dishonesty; dishonesty is a lack of integrity or a disposition to defraud or deceive. *State Board of Nursing v. Blaine*, No. 08-2134 BN (Mo. Admin. Hrg. Comm'n, September 18, 2009). Stealing is a crime involving moral turpitude. *Id.* Further, the Administrative Hearing Commission found that the crimes of felony theft and attempt to commit theft in *Trice v. Dept. of Ins., Fin. Inst. and Prof. Reg'n*, constituted Category 1 crimes. No. 10-1006 DI (Mo. Admin. Hrg. Comm'n, September 2, 2010).

28. Fraud is a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. *Financial Solutions and Assocs. v. Carnahan*, 316 S.W.3d 518, 528 (Mo. App. W.D. 2010). "Fraud is an intentional perversion of truth to induce another, in reliance on it, to part with some valuable thing belonging to him. It necessarily includes dishonesty, which is a lack of integrity or a disposition to defraud or deceit. Misrepresentation is a falsehood or untruth made with the intent and purpose of deceit." *State Board of Nursing v. Kinkade*, No. 10-1602 BN (Mo. Admin. Hrg. Comm'n, February 22, 2011) (internal citations omitted). "'Material' means 'having real importance or great consequences[.]'" *Director of Dept. of Ins., Fin. Inst. and Prof. Reg'n v. Louderback and Premier Financial Services,* No. 07-1376 DI (Mo. Admin. Hrg. Comm'n, May 21, 2009) (internal citations omitted).

29. 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. S.D. 2010).

30. 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).

31. The Director may refuse to issue an insurance producer license to Wilson pursuant to § 375.141.1(6), RSMo (Supp. 2010) because Wilson was convicted of a felony, in that Wilson pleaded guilty to the Class D Felony of Attempted Stealing Over $150.00 by Deceit. *State of Missouri v. Jeffrey L. Wilson*, Case No. 599905 (21F89-3097).

32. The Director may refuse to issue an insurance producer license to Wilson pursuant to § 375.141.1(6), RSMo (Supp. 2010) because Wilson was convicted of a crime of moral turpitude, in that Wilson pleaded guilty to the Class D

Felony of Attempted Stealing. *State of Missouri v. Jeffrey L. Wilson*, Case No. 599905 (21F89-3097).

33. The Director may refuse to issue an insurance producer license to Wilson pursuant to § 375.141.1(6), RSMo (Supp. 2010) because Wilson was convicted of a felony, in that Wilson pleaded guilty to the Class C Felony of Failure to Return Rented Personal Property. *State of Missouri v. Jeffrey Lewis Wilson*, Case No. 02CR737087-01.

34. The Director may refuse to issue an insurance producer license to Wilson pursuant to § 375.141.1(2), RSMo (Supp. 2010) because Wilson violated the insurance regulations of Missouri by failing to give an adequate response to a Division inquiry within 20 days or demonstrate a reasonable justification for his delayed response as required by 20 CSR 100-4.100(2)(A), which is cause to discipline under § 375.141.1(2).

35. The Director may refuse to issue an insurance producer license to Wilson pursuant to § 375.141.1(1), RSMo (Supp. 2010) because Wilson intentionally provided materially incorrect, misleading, incomplete or untrue information in the Application, in that he failed to disclose that he pleaded guilty to the Class C Misdemeanor of Assault in the 3rd degree in response to Background Question No. 1.

36. The Director may refuse to issue an insurance producer license to Wilson pursuant to § 375.141.1(3), RSMo (Supp. 2010) because Wilson attempted to obtain a license through material misrepresentation or fraud, in that he failed to disclose the Class C Misdemeanor of Assault in the 3rd degree, which is material because the Department uses that information in determining whether or not to issue, renew, or revoke a license.

37. Wilson pleaded guilty to two felonies: the Class D Felony of Attempted Stealing Over $150.00 by Deceit, which is also a crime of moral turpitude, and the Class C Felony of Failure to Return Rented Personal Property. Each is an independent reason for the Director to refuse Wilson's license. Additionally, Wilson provided incorrect and untrue information on his Application by failing to disclose the Class C Misdemeanor of Assault in the 3rd degree on his Application, and by doing so attempted to obtain a license through material misrepresentation. Finally, Wilson failed to give an adequate response to a Division inquiry within 20 days or demonstrate a reasonable justification for his delayed response as required by regulation. For all of the reasons given in this Petition, the Director has considered Wilson's history and all of the circumstances surrounding Wilson's Application and exercises his discretion in summarily refusing Wilson's

insurance producer license.

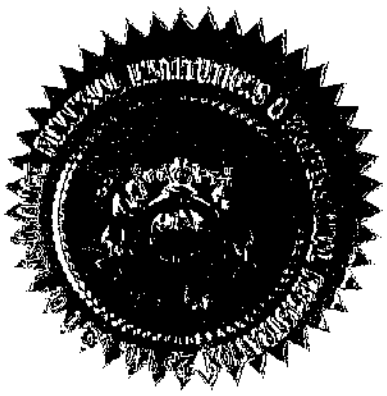
38. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Jeffrey Lewis Wilson is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 1ST DAY OF JUNE, 2011.



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 21st day of July, 2011, a copy of the foregoing Notice and Order was served upon the Applicant in this matter by certified mail No. 70093410000193492730 to:

Jeffrey Lewis Wilson
4032 French Oak Lane
St. Charles, MO 63304

Kathryn Randolph

Kathryn Randolph, Paralegal