State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Laurie S. Rhodes,	)	**Case No. 11-0118056C**
	)	
Applicant.	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On February 23, 2011, Carolyn H. Kerr, Legal Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Laurie S. Rhodes. 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. Laurie S. Rhodes ("Rhodes") is an individual residing in Missouri.

2. On or about December 7, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Rhodes' electronic Resident Individual Producer License Application ("Application").

3. In her Application, Rhodes listed her residential and mailing address as 10201 Lylewood, St. Louis, Missouri 63124. Rhodes listed 7321 S. Lindbergh Blvd., Suite 101, St. Louis, Missouri 63124 as her business address.

4. In the section of the Application headed "Background Questions," Background Question No. 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?"

5. Rhodes answered "Yes" to Background Question No. 1.

6. With her Application, Rhodes provided a hand-written, signed document, dated December 3, 2010, in which she disclosed and explained her conviction for Conspiracy to Manufacture Marijuana. She also provided copies of the Judgment in a Criminal Case ("Judgment") from the United States District Court, Eastern District of Missouri, relating to her criminal conviction. *United States of America v. Laurie S. Rhodes*, Case No. 4:07CR00536 CDP.

7. The Judgment indicated that Rhodes pleaded guilty to Conspiracy to Manufacture

Marijuana and Criminal Forfeiture on November 15, 2007. She was ordered "committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 18 months," and placed on Supervised Release "upon release from imprisonment … for a term of 3 years."

8. Rhodes' guilty plea arose from a three-count Indictment filed on September 13, 2007, alleging, in pertinent part, in Count I, that Rhodes and Paulo Campos a/k/a Peter Moses

> knowingly and intentionally combine, conspire, confederate and agree … to knowingly and intentionally manufacture marijuana by the production, preparation, and propagation of in excess of one hundred (100) plants, in violation of Title 21, United States Code, Section 841(a)(1) … and punishable under Title 21, United States Code, Section 841(1)(B)(vii).

9. The Indictment alleged, in pertinent part, in Count III, as follows:

> "The property, real and personal of defendants Paulo Campos, a/k/a/ Peter Moses, and Laurie S. Rhodes,
>
> (a) constituting, or derived from, any proceeds the defendants obtained, directly or indirectly, as a result of the violations of law set out in Counts I & II of this Indictment; and
>
> (b) Used, or intended to be used, in any manner or part to commit or to facilitate the commission of such violations
>
> is property subject to forfeiture pursuant to Title 21, United States Codes, Section 853(a).

10. Upon finding Rhodes guilty of Counts I and III of the Indictment, the Court ordered Rhodes to pay an Assessment of $100, a fine of $4,000, and forfeit her interest in a 2001 Dodge Ram pickup truck and a 2006 Cadillac STS.

11. According to her December 3, 2010 letter, Rhodes served 10 months in prison.

12. Rhodes is currently serving probation. Her term of probation is scheduled to end in 2012.

CONCLUSIONS OF LAW

13. Section 375.141, RSMo[1] 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] All statutory references are to the 2010 Supplement to the Revised Statutes of Missouri, unless otherwise noted.

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

14. Title 21 U.S.C. § 841 provides, in relevant part:

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally –

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance[.]

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(B) In the case of a violation of subsection (a) of this section involving –

* * *

(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight;

* * *

(a) Such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years[.]

15. Title 21 U.S.C. § 802(44) defines the term "felony drug offense" as

an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, anabolic steroids, or depressant or stimulant substances.

16. A plea of guilty to a criminal charge is admissible as an admission against penal interest in any subsequent proceeding against the one who made it, for it is a solemn confession of the truth of the charge, though it is not conclusive and may be explained. *Pruiett v. Wilform*, 477 S.W.2d 76, 80 (Mo. 1972). "A licensee's guilty plea may lead to collateral estoppel, a doctrine that precludes a licensee from denying charges against him." *Stanton v. State Brd. of Nursing*, Mo. Admin. No. 05-1661BN (Mo.Admin.Hrg.Commn.).

17. A crime involving "moral turpitude" is a crime involving "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).

18. The court in *Brehe v. Mo. Dept. of Elementary & Secondary Education*, which involved an attempt to discipline a teacher's certificate under § 168.071, RSMo, for committing a crime involving moral turpitude, referred to three categories of crimes, drawn from 21 Am.Jur.2d. Criminal Law § 22 (1998):

(1) crimes that necessarily involve moral turpitude (referred to in *Brehe* as "category 1" crimes);

(2) crimes "so obviously petty that conviction carries no suggestion of moral turpitude" ("category 2" crimes); and

(3) crimes that "may be saturated with moral turpitude," yet do not involve it necessarily ("category 3" crimes).

See Brehe v. Mo. Dept. of Elementary & Secondary Education, 213 S.W.3d 720, 725 (Mo. App. W.D. 2007).

19. Category 1 crimes, since they necessarily involve moral turpitude, require no analysis beyond their elements to show moral turpitude. They require only a showing of a conviction or guilty plea. *Id.*

20. Category 3 crimes require consideration of "the related factual circumstances" of the offense to determine whether moral turpitude is involved. *Id.*

21. A felony conviction for the possession of narcotics, pursuant to 21 U.S.C. § 841, is a crime of moral turpitude. *Brehe,* 213 S.W.3d at 725, citing *In re Shunk*, 847 S.W.2d 789, 791-792 (Mo. banc 1993), and *Burgess*, 553 U.S. at 129.

22. 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).

CAUSE FOR ORDER REFUSING TO ISSUE PUBLIC ADJUSTER SOLICITOR LICENSE

23. The Director may refuse to issue Rhodes a non-resident insurance producer license pursuant to § 375.141.1(6) because the offense of Conspiracy to Manufacture Marijuana is a felony drug offense. 21 U.S.C. § 802(44).

24. The Director may refuse to issue an insurance producer license to Rhodes pursuant to § 375.141.1(6) because the offense of Conspiracy to Manufacture Marijuana is a crime of moral turpitude. *Brehe,* 213 S.W.3d at 725.

25. The Director has considered Rhodes' history and all of the circumstances surrounding her Application. Therefore, granting Rhodes' an insurance producer license would not be in the interest of the public. For all of the reasons stated in this Order, the Director exercises his discretion by refusing to issue Rhodes an insurance producer license.

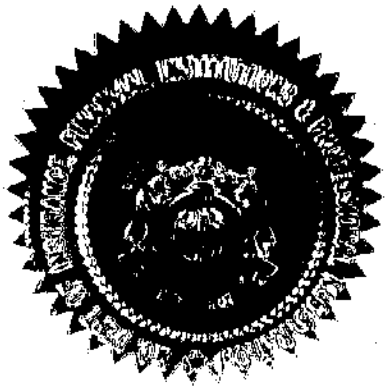
26. The requested order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of LAURIE S. RHODES is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 28TH DAY OF FEBRUARY, 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 2nd day of March, 2011, a copy of the foregoing notice and order was served upon Laurie S. Rhodes in this matter by certified mail at the following address:

Laurie S. Rhodes
10201 Lylewood
St. Louis, MO 63124

Certified Mail # 7009-3410-0001-9349-6363

Laurie S. Rhodes
7321 S. Lindbergh Blvd., Ste. 101
St. Louis, MO 63124

7009-3410-0001-9349-6370

Kimberly Sanders