

**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

In re:)
) **DIFP No. 130913531C**
ROBERT M. MOORE,)
) **AHC No. 14-0285 DI**
) **Respondent.**)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DISCIPLINE

Based on the competent and substantial evidence on the whole record, I, John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, hereby issue the following Findings of Fact, Conclusions of Law, and Order of Discipline:

Findings of Fact

1. John M. Huff is the duly appointed Director (“Director”) of the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Department”) whose duties, pursuant to Chapters 374 and 375, RSMo, include supervision, regulation and discipline of insurance producers.
2. On December 19, 2012, the Department inadvertently issued Robert M. Moore (“Moore”) an insurance producer license, license number 8282808. Moore’s license expired

December 19, 2014.

3. On February 28, 2014, the Director filed a Complaint with the Administrative Hearing Commission (“Commission”) seeking a finding that cause existed to discipline Moore’s insurance producer license.

4. On June 9, 2014, Moore was served with a copy of the Complaint by United Parcel Service, signature required. Moore never filed an Answer to the Complaint.

5. On July 11, 2014, the Director filed a Motion for Summary Decision and Suggestions in Support. The Commission gave Moore until July 28, 2014 to respond to the Motion, but Moore never filed a response.

6. On August 11, 2014, the Commission issued its Decision finding cause to discipline Moore’s insurance producer license pursuant to § 375.141.1(6) RSMo (Supp. 2013).¹ *Director of Dep’t of Ins., Fin. Insts. & Prof’l Reg’n v. Robert M. Moore*, No. 14-0285 DI (Mo. Admin. Hrg. Comm’n Aug. 11, 2014).

7. In support of its finding of cause to discipline Moore’s insurance producer license, the Commission found the following facts:

a. On January 29, 2002 in the Circuit Court of St. Louis County, Missouri, Moore pled guilty to one count of the Class B Felony of Distribution, Delivery, Manufacture or Production or Attempt to or Possess with Intent to Distribute, Deliver, Manufacture or Produce a Controlled Substance.

b. On January 29, 2002, the court sentenced Moore to five years’ incarceration with the Missouri Department of Corrections, but suspended the

¹ All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

execution of sentence, sentenced Moore to fourteen days' shock incarceration, and placed Moore on supervised probation for five years.

c. On September 15, 2003 in the Circuit Court of St. Louis County, Missouri, Moore pled guilty to three counts of the Class B Felony of Distribution, Delivery, Manufacture or Production or Attempt to or Possess with Intent to Distribute, Deliver, Manufacture or Produce a Controlled Substance.

d. On September 15, 2003, the court sentenced Moore to six years' incarceration with the Missouri Department of Corrections, but suspended the execution of sentence, ordered Moore to complete 120 days in the Choices program, and placed Moore on supervised probation for five years.

e. On May 31, 2012, the Director received Moore's complete application for a resident insurance producer license.

f. On December 19, 2012, Moore was mistakenly issued an insurance producer license.

Id.

8. Based on these factual findings, the Commission found cause to discipline Moore's insurance producer license pursuant to:

a. Section 375.141.1(6) because Moore pled guilty to and was convicted of four felonies.

b. Section 375.141.1(6) because Moore pled guilty to and was convicted of four crimes of moral turpitude.

Id.

9. On September 17, 2014, the Commission certified the record of its proceeding to the Director pursuant to § 621.110.

10. On September 22, 2014, the Director sent Moore a Notice of Hearing via certified mail through the United States Postal Service, signature required, and by first class mail, both to 154 Brentwood Square, Nashville, Tennessee 37211, setting the disciplinary hearing for 10:00 a.m. on October 21, 2014, in the offices of the Department, 301 West High Street, Jefferson City, Missouri 65102. According to the United States Postal Service's tracking information, Notice of the certified mail was left at Moore's address on September 25, 2014. As of the date of the disciplinary hearing, Moore had not claimed the certified mail and the United States Postal Service had not yet returned the mailing to the Department. The first class mail was not returned to the Department as undeliverable.

11. On October 21, 2014, the Director, through his hearing officer, Mark Rachel, held the disciplinary hearing. *Disciplinary Hearing Transcript ("Tr.")* at 2. Moore did not appear, nor did any attorney appear on his behalf. *Tr.* 3. Tammy S. Kearns appeared on behalf of the Department's Consumer Affairs Division ("Division"). *Tr.* 2.

12. At the hearing, the hearing officer admitted the Commission's certified record of proceedings into evidence as Exhibit 1. *Tr.* 5. The hearing officer also admitted the Notice of Hearing and tracking information from the United States Postal Service into evidence as Exhibit 2. *Tr.* 5.

13. At the hearing, the Division, through counsel, recommended that Moore's insurance producer license be revoked. *Tr.* 3 & 6.

14. The Director hereby incorporates the Commission's August 11, 2014 Decision

referenced herein and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Robert M. Moore*, No. 14-0285 DI (Mo. Admin. Hrg. Comm'n Aug. 11, 2014).

15. After the disciplinary hearing, the Division submitted proposed findings of fact, conclusions of law and order of discipline.

Conclusions of Law

16. Section 374.051.2, relating to a proceeding to revoke or suspend a license, states, in relevant part:

If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine appropriate discipline.

17. Section 621.110 outlines the procedure after the Commission finds cause to discipline a license. That statute provides, in relevant part:

Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee . . . , the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. . . . Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing[.] . . . The licensee may appear at said

hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. . . .

18. Where an agency seeks to discipline a license, the Commission finds the predicate facts as whether cause exists for the discipline, and then the agency exercises final decision making authority concerning the discipline to be imposed. *State Bd. of Reg'n for the Healing Arts v. Trueblood*, 368 S.W.3d 259, 267-68 (Mo. App. W.D. 2012).

19. Section 375.141 states, 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:

* * *

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

* * *

4. The director may also revoke or suspend pursuant to subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

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

21. The Commission has the authority to conduct hearings and make findings of fact and conclusions of law that cause exists to revoke an insurance producer license. Section 621.110.

22. Section 621.110 allows the Director to receive evidence relevant to the appropriate disciplinary action.

23. The Director has the discretion to discipline Moore's insurance producer license, including the discretion to revoke that license. Sections 374.051.2, 375.141.1, and 621.110.

24. Based on the Commission's finding and the nature of the aforementioned conduct, sufficient grounds exist to revoke Moore's insurance producer license pursuant to § 375.141.1(6).

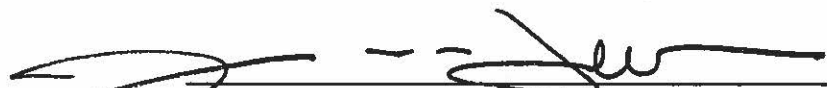
25. This Order is in the public interest.

ORDER

Based on the foregoing findings and conclusions, the insurance producer license of **Robert M. Moore** (License No. 8282808) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 13TH DAY OF JANUARY, 2015.




John M. Huff, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of January, 2015, a true and complete copy of the foregoing Order was served in this matter by UPS, signature required, at the following address:

Robert M. Moore
154 Brentwood Square
Nashville, TN 37211

Tracking No. 1Z0R15W84296707731

A handwritten signature in black ink that reads "Kathryn Latimer". The signature is written in a cursive style and is positioned above a horizontal line.

Kathryn Latimer, Paralegal
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