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INSURANCE DEPARTMENT
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ADMIN HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
Lori A. Moore : Pursuant to the Violent Crime
c/o Maria Tait : Control and Law Enforcement Act of
80 Chelmsford Drive : 1994, 18 U.S.C. § 1033
Marietta, PA 17547 :
Respondent : Docket No. **CW11-11-002**

ADJUDICATION AND ORDER

AND NOW, this 23rd day of September, 2016, Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania (“Commissioner”), makes the following Adjudication and Order.¹

HISTORY

In July 2003 the Court of Common Pleas of Lehigh County, Pennsylvania, convicted Lori A. Moore of forgery, a felony offense. [Consent Order ¶ 2(a)]. Under federal law, this made Ms. Moore ineligible to obtain a license as an insurance producer without written consent from an insurance regulatory agency authorized to provide such permission.²

On September 5, 2011, Ms. Moore submitted an application for written consent to engage in the business of insurance under the provisions of 18 U.S.C. § 1033(e)(2). The

¹ Factual findings and legal conclusions are contained within the body of this adjudication.

² 18 U.S.C. § 1033(e)(2) provides that a person convicted of a felony involving dishonesty may not engage in the business of insurance unless an insurance regulatory official provides a written consent which specifically refers to this provision.

DATE MAILED: September 23, 2016

Pennsylvania Insurance Department granted conditional permission to Ms. Moore to engage in the business of insurance as a producer. Ms. Moore signed the consent order effective November 16, 2011.

With her signature on the consent order, Ms. Moore agreed to cease and desist from engaging in any criminal acts involving dishonesty or a breach of trust and to comply with Pennsylvania insurance laws and regulations. [Consent Order ¶ 4 (a)]. The order also provided that Ms. Moore's license was subject to immediate suspension upon notice after an "investigation and determination that Applicant has failed to adhere to any condition set forth in this order or has violated an insurance statute or regulation." [Consent Order ¶ 7]. Supervision under this order was scheduled to end on November 16, 2016.

On August 20, 2015 an employee of Apple Nissan Finance ("Apple") reported to police that Ms. Moore had given the company a check in the amount of \$3000.00 as down payment on a used car. [Exhibit PID1]. At Ms. Moore's request, Apple waited to deposit the check until after May 28, 2015. [Id.]. The bank returned the check marked "NSF." [Id.]. When Apple determined that it could not obtain funds from Ms. Moore's bank account, the company sent a certified letter requesting payment. [Id.]. Ms. Moore signed a return receipt for the letter on June 15, 2015. [Id.]. She did not pay the \$3000.00 she owed Apple. [Id.].

During its investigation, an officer with the Springettsbury Township police spoke to Ms. Moore who said the problem stemmed from a commission check she had expected to receive so she could fund the bank account. [Exhibit PID1]. She denied that Apple had attempted collection of the money. [Id.]. Ms. Moore admitted that it was her fault she had not made the \$3000.00 payment. [Id.]

After investigating the bank records which established that Ms. Moore's account had

never contained sufficient funds, the Springettsbury Township police officer filed a criminal complaint on September 25, 2015 against Ms. Moore. [N.T. 26; Exhibit PID1]. The complaint led to a felony charge of theft by deception in violation of the Pennsylvania Crimes Code at 18 Pa.C.S. § 3922(A)(1).³ [Exhibit PID1]. Thereafter on April 25, 2016, Ms. Moore pled guilty to the charge and admitted that she had knowingly obtained her car without “having the funds available for it.” [Exhibit PID3]. She offered no excuse but said she had acted out of “stupidity.” [Id.].

Ms. Moore did not report either the charge or its disposition to the Department. [N.T. 14–15, 22]. The Department learned of the criminal charges through JNET, a criminal justice network. [N.T. 37–38]. After obtaining the documentation of the charges, the Department sent a letter to Ms. Moore on March 23, 2016 immediately suspending her license according to section 7 of the 2011 consent order. [N.T. 44–45; Exhibit PID2]. Ms. Moore requested a hearing which was scheduled for and held on May 24, 2016.

During the hearing Ms. Moore did not dispute the April 25, 2016 guilty plea or the actions that led to it. She presented no explanation for her failure to pay Apple the down payment except her “ignorance.” [N.T. 34–35]. Ms. Moore also said she did not know that the consent order, or the law, required her to report the charges within 30 days rather than after final disposition of the criminal charges. [N.T. 15–16, 21, 28].

At the conclusion of her testimony, Ms. Moore asked that her license suspension be

³ 18 Pa.C.S. § 3922(A)(1) defines the offense as follows:

A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally:

- (1) creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise. . .

brief. [N.T. 12]. She thought a three month suspension was “fair.” [N.T. 33]. The Department moved to revoke the consent order and to revoke permanently Ms. Moore’s insurance producer license.

Under the federal Violent Crime Control and Law Enforcement Act, 18 U.S.C. §§ 1033 and 1034, anyone convicted of a felony involving dishonesty or a breach of trust may not engage in the business of insurance. Persons violating this law may be subject to federal prosecution and penalties. The clear purpose of the law is to protect insurance buying consumers from dishonest and untrustworthy persons who might engage in the insurance industry. By definition, insurance producers have extensive personal contact with applicants and insureds. The applicants and insureds entrust financial and personal matters to the producer, and must be able to rely upon that producer’s integrity.

In this case, Ms. Moore’s July 7, 2003 felony forgery conviction, a type of crime involving dishonesty or a breach of trust, made her ineligible to engage in the business of insurance. Under the federal statute, she became a “prohibited person” subject to criminal penalties for engaging in the business of insurance. 18 U.S.C. § 1033(e)(a)(A). However, 18 U.S.C. § 1033 gives state insurance regulators the ability to grant an exception to a prohibited person. Regulators must grant “written consent” for a prohibited person to engage in the business of insurance.

Ms. Moore benefited from this exception when she filed an application with the Pennsylvania Insurance Department in September 2011 requesting permission to become an insurance producer despite the nature of her prior conviction. The Department granted her request and entered into a consent order giving her a conditional waiver to become an insurance producer. The Department observes in its brief that it gave Ms. Moore “the benefit of the doubt that she had been rehabilitated and that she would conduct herself in accordance

with the law.” PID brief, p. 9.

Ms. Moore violated that trust with her conviction for felony theft by deception in 2016. She again has committed a crime which makes her a prohibited person under federal law. Furthermore, a producer who has recently inflicted financial harm upon others is incapable of the trust necessary in the profession. Simply put, Ms. Moore cannot be trusted with the pocketbooks, bank accounts and personal information of her customers.

Ms. Moore offered only the mitigating evidence that she had completed restitution payments to Apple. [N.T. 22]. She also asked for consideration because she is 53 years old and has been unable to find a job. [N.T. 24].

None of these circumstances warrant continuation of the 2011 consent order permitting Ms. Moore to continue working as an insurance producer. In addition to violating the terms of her consent order, Ms. Moore has demonstrated unworthiness to become a licensed insurance producer under the requirements of Pennsylvania law. Among other prohibited acts, the statute proscribes “commission of a felony or its equivalent.” 40 P.S. § 310.11(14). Pennsylvania law also requires a licensee to report any criminal charges within 30 days of being charged. 40 P.S. § 310.78(b).

While Ms. Moore’s recent activity in her dealings with Apple did not occur in her business as an insurance producer, she has not demonstrated the level of professionalism and competence required to protect insurance consumers. Insurance policy applicants and policyholders must be able to rely upon the producer’s competence and integrity. In all events, the overriding consideration is protection of the insurance consumer, industry and profession. “The Commissioner has the duty to protect the public from unworthy agents and also to maintain the appearance of worthiness among agents.” *Romano v. Pennsylvania*

Insurance Commissioner, 404 A.2d 758, 760 (Pa. Cmwlth. 1979). Ms. Moore has not demonstrated that she currently is entitled to an insurance producer license.

For these reasons, the following order is entered.

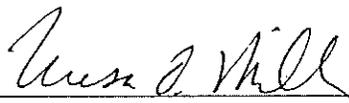
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ORDER

AND NOW, based upon the foregoing it is **ORDERED** as follows:

1. The Pennsylvania Insurance Department's motion to revoke the November 16, 2011 consent order and to revoke all of the insurance licenses or certificates of qualification of Lori A. Moore **IS GRANTED**.
2. All the insurance licenses or certificates of qualification of Lori A. Moore **ARE REVOKED** for a minimum of five (5) years pursuant to 40 P.S. 310.91. Additionally, Lori A. Moore is prohibited from applying for a certificate of qualification to act as a producer in this Commonwealth for a minimum of five (5) years.
3. This order is effective immediately.



TERESA D. MILLER
Insurance Commissioner