

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ANTHONY MOORE,

Petitioner,

vs.

Case No. 22-1950

DEPARTMENT OF FINANCIAL SERVICES,

Respondent.

RECOMMENDED ORDER OF DISMISSAL

Pursuant to notice, a formal administrative hearing was convened via Zoom on August 9, 2022, before Administrative Law Judge Garnett W. Chisenhall of the Division of Administrative Hearings (“DOAH”).

APPEARANCES

For Petitioner: No appearance

For Respondent: Greg Caracci, Esquire
Department of Financial Services
612 Larson Building
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

Whether Petitioner’s application for licensure as a non-resident personal lines (90-44) agent should be granted.

PRELIMINARY STATEMENT

On December 27, 2021, the Department of Financial Services (“the Department”) issued a “Notice of Denial” notifying Petitioner (“Anthony Moore” or “Mr. Moore”) that the Department intended to deny his application

for licensure as a non-resident personal lines (90-44) agent. In support thereof, the Department stated that Mr. Moore had entered a guilty plea on May 23, 2003, in the Circuit Court of St. Louis County, Missouri, to a charge of possession with intent to distribute. The Notice of Denial also stated that Mr. Moore failed to disclose the aforementioned felony in response to a question on his licensure application asking if he had ever been convicted of a felony. Mr. Moore requested a formal administrative hearing, and the Department referred this matter to DOAH on July 1, 2022.

The undersigned issued a Notice on July 11, 2022, scheduling a final hearing for August 9, 2022.

A pre-hearing conference was held on July 28, 2022, with all parties present. Mr. Moore did not request that the final hearing be continued.

The final hearing was convened as scheduled at 9:00 a.m. on August 9, 2022. The Department's counsel was present, but no one appeared on Mr. Moore's behalf. The undersigned took a short recess and asked his administrative assistant to contact Mr. Moore. All efforts to contact Mr. Moore were unsuccessful. The undersigned reconvened the hearing at approximately 9:20 a.m., without Mr. Moore being present. The final hearing was thereafter adjourned.

Given the burden of proof as discussed herein, post-hearing submittals were determined to be unnecessary.

Unless noted otherwise, all statutory references shall be to the 2022 version of the Florida Statutes. *See generally Lavernia v. Dep't of Pro. Regul., Bd. of Med.*, 616 So. 2d 53 (Fla. 1st DCA 1993)(stating that "Florida follows the general rule that a change in a licensure statute that occurs during the

pendency of an application for licensure is operative as to the application, so that the law as changed, rather than as it existed at the time of the application was filed, determines whether the license should be granted.”).

FINDINGS OF FACT

1. By letter dated December 27, 2021, the Department notified Mr. Moore that it intended to deny his application for licensure as a non-resident personal lines (90-44) agent. In support of its intended action, the Department stated that Mr. Moore had pled guilty in the Circuit Court of St. Louis County, Missouri, on May 23, 2003, to a charge of possession with intent to distribute. The Department also stated that Mr. Moore did not disclose the aforementioned offense in response to a question on his licensure application asking if he had ever been convicted of a felony.

2. Mr. Moore requested a formal administrative hearing and asserted that he had no criminal history. He further asserted that the information obtained by the Department was the result of a “prank.”

3. Because of Mr. Moore’s failure to appear for the final hearing, there is no evidence to support a finding that he is entitled to the license he is seeking.

CONCLUSIONS OF LAW

4. DOAH has jurisdiction over the parties and the subject matter of this proceeding. § 120.57(1), Fla. Stat.

5. Mr. Moore applied to the Department for licensure as a personal lines insurance agent. A personal lines agent is “a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.” § 626.015(17), Fla. Stat.

6. The Department is charged with the duty to enforce and administer provisions of chapter 626, Florida Statutes. Accordingly, the Department has

jurisdiction over the licensing procedures for personal lines agents. *See* § 626.016(1), Fla. Stat.

7. Section 626.207, sets forth grounds upon which applicants for insurance licensure will be disqualified. Section 626.207(2) establishes a permanent licensure bar for those guilty of first degree felonies, capital felonies, felonies involving money laundering, felony embezzlement, and felonies directly related to the financial services business. Section 626.207(3)(a), imposes a “15-year disqualifying period for all felonies involving moral turpitude which are not specifically included in the permanent bar contained in subsection (2).”

8. Possessing a controlled substance with an intent to distribute is a crime of moral turpitude. *Milliken v. Dep’t of Bus. & Pro. Regul.*, 709 So. 2d 595 (Fla. 5th DCA 1998).

9. Mr. Moore challenges the Department’s denial of his application. As the applicant for a license, Mr. Moore has the ultimate burden of persuasion to prove his entitlement to licensure by a preponderance of the evidence. *Dep’t of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932, 934 (Fla. 1996).

10. Mr. Moore failed to meet his burden of proof.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Financial Services enter a final order: (a) dismissing Anthony Moore’s request for a formal administrative hearing; and (b) denying his application for licensure as a non-resident personal lines (90-44) agent.

DONE AND ENTERED this 11th day of August, 2022, in Tallahassee, Leon County, Florida.

Garnett Chisenhall

G. W. CHISENHALL
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 11th day of August, 2022.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.