



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

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

In the Matter of:

JAY RICHARD GOTTMAN

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DIFP Case No. 11-0503500C

AHC Case No. 11-2295 DI

**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 (the "Department"), whose duties, pursuant to Chapters 374 and 375, RSMo, include supervision, regulation and discipline of individual insurance producers.

2. The Department issued Respondent Jay Richard Gottman ("Gottman") an insurance producer license on July 20, 2007. Gottman's license expired on July 20, 2011.

3. On November 22, 2011, the Director filed a Complaint with the Administrative Hearing Commission ("Commission"), seeking a finding that cause existed to discipline Gottman's insurance producer license under § 375.141.1(2) and (8) RSMo Supp. 2011.¹

4. On November 30, 2011, Gottman was served with a copy of the Complaint. Gottman filed no answer or other responsive pleading with the Commission.

5. On March 8, 2012, the Director filed a Motion for Summary Decision, seeking the Commission's order finding cause to discipline Gottman's license under § 375.141.1(2) and (8).

6. Gottman filed no response to the Director's Motion.

7. On April 30, 2012, the Commission issued its Decision, finding cause to discipline Gottman's insurance producer license based on the following facts and for the following reasons:

- a. Gottman failed to respond to the Director's letters and failed to inform the Director of his change of address. Therefore, Gottman violated 20 CSR 100-4.100(2)(A) and § 375.018.7, which violations are cause for discipline under § 375.141.1(2);
- b. Gottman, appointed with Bankers Life and Casualty Co., met with a consumer and enrolled her in an Advantra2 Plan. However, Gottman admitted under oath at the June 18, 2009 subpoena conference before the Department, that he wrote the application for the consumer's enrollment

¹ All statutory references are to RSMo Supp. 2011 unless otherwise indicated.

but he allowed another producer, James Phillip Chouteau, Jr., to sign the enrollment application as the producer of record, even though Chouteau was not present during the offer, sale, solicitation or negotiation process for the insurance product. This allowed Chouteau to receive the commission for the sale of the product. Therefore, Gottman's actions deceived the insurance company in connection with the offer, sale, solicitation or negotiation of insurance, in violation of § 375.144(4), which is cause for discipline under § 375.141.1(2); and

- c. Gottman's actions referenced in the previous subparagraph, also evidenced dishonesty and untrustworthiness in the conduct of business, which is cause for discipline under § 375.141.1(8).

8. On June 1, 2012, the Commission certified the record of its proceedings to the Director pursuant to § 621.110.

9. The Director originally set the disciplinary hearing for June 26, 2012. Although the Director attempted to serve the Notice of Hearing, an irregularity with the certified mail receipts resulted in the setting of a new disciplinary hearing date and time.

10. The Director served Gottman (at two different addresses) by certified and regular mail with a Notice of Hearing, which set the disciplinary hearing for 9:00 a.m., July 18, 2012, at the Department, 301 West High Street, Room 530, Jefferson City, Missouri. The United States Postal Service returned the regular and certified mail sent to Gottman's Pensacola, Florida address as undeliverable. The regular mail with the Notice of Hearing sent to Gottman at his Lees Summit, Missouri address was not returned as undeliverable. The United States Postal

Service left notice of the certified mail with the Notice of Hearing at the Lees Summit address on June 22, 2012, according to USPS.com Track & Confirm. However, as of the July 18, 2012 hearing, neither the certified mail nor the green card were returned to the Director.

11. On July 18, 2012, the Director, through his hearing officer, Mary S. Erickson, held the disciplinary hearing. Neither Gottman nor any person representing him attended the hearing. Carolyn H. Kerr, representing the Department's Division of Consumer Affairs, recommended that Gottman's insurance producer license be revoked.

12. At the disciplinary hearing, the hearing officer admitted into evidence the Commission's record of proceedings, the first Notice of Hearing, and the second Notice of Hearing, as Exhibits 1 through 3, respectively.

13. The Director hereby incorporates the April 30, 2012 Decision of the Administrative Hearing Commission referenced herein, and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof. Reg'n v. Jay Richard Gottman*, No. 11-2295 DI (Mo. Admin. Hearing Comm'n, April 30, 2012).

Conclusions of Law

14. Pursuant to §§ 375.141 and 621.110, the Director has the discretion to discipline Gottman's insurance producer license, including the discretion to revoke such license.

15. Pursuant to § 375.141.4, the Director has authority to revoke any license where the licensee has failed to renew.

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

17. Based on the nature of the aforementioned conduct, sufficient grounds exist to revoke Gottman's Missouri insurance producer license pursuant to § 375.141.1(2) and (8).

18. This Order is in the public interest.

ORDER

Based on the evidence presented, the insurance producer license of **Jay Richard Gottman** (License No. 0398204) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 3RD DAY OF AUGUST, 2012.



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

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2012, that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Order of Discipline was served through the U.S. Postal Service, by certified mail, signature required, Tracking No. 7009-3410-0001-8931-9416, and by regular mail, postage prepaid, to:

Jay Richard Gottman
1213 NE Pierce Pl.
Lees Summit, MO 64086-3515

And by hand-delivery to:

Carolyn H. Kerr
Counsel for the Consumer Affairs Division
Missouri Department of Insurance, Financial Institutions and Professional Registration

Handwritten signature of Kimberly Sanders in cursive script.