



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

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

IN RE: )  
)  
**JERRY LEE BROCKMAN,** ) **Case No. 141119743C**  
)  
**Respondent.** )

**CONSENT ORDER**

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Mark J. Rachel, and Respondent Jerry Lee Brockman, represented by Ann Monaco Warren, English & Monaco, P.C., have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Director” of the “Department”) whose duties, pursuant to Chapters 374 and 375 RSMo<sup>1</sup> include the supervision, regulation, and discipline of insurance producers.

2. The Consumer Affairs Division (“Division”) of the Department has the duty of conducting investigations into the conduct of insurance producers pursuant to the insurance laws of Missouri and has been authorized by the Director to investigate and initiate actions to enforce

<sup>1</sup> All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement.

the insurance laws of Missouri, including insurance producer license discipline. The Division conducted an investigation of Jerry Lee Brockman ("Mr. Brockman") and made the following allegations:

- a. The Department issued Mr. Brockman a resident insurance producer license, number 0180405, on March 24, 2004, which was renewed on March 25, 2016.
- b. Mr. Brockman was appointed by American Family Life Assurance Company of Columbus ("AFLAC") to act as an insurance producer on AFLAC's behalf from August 31, 1993 until November 9, 2011.
- c. In approximately the last week of 2004, another AFLAC insurance producer ("Producer") transmitted unauthorized insurance policy applications, including information that the applicants were employed at places where they were not, which benefitted both the Producer and Mr. Brockman by crediting them, from the initial perspective of AFLAC, for having produced genuine business on its behalf.
- d. AFLAC's internal investigation concluded that Mr. Brockman also "established bogus groups to get payroll rates" and he was subsequently terminated "for cause[.]"

3. On July 17, 2015, Mr. Brockman was charged by information with Assault in the Third Degree, a Class A Misdemeanor, in violation of § 565.070 ("Assault").<sup>2</sup> *State v. Jerry Lee Brockman*, Boone Co. Cir. Ct., Case No. 15BA-CR02569 ("*State v. Brockman*").

4. On January 27, 2016, Mr. Brockman pled guilty to Assault and the court suspended imposition of sentence, ordering Mr. Brockman to complete two years' unsupervised

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<sup>2</sup> All criminal statutory references are to those contained in the version of the Revised Statutes of Missouri pursuant to which the judgment was rendered.

probation. *Id.* There has been no conviction handed down in this matter.

5. On or about March 7, 2016, the Department received Mr. Brockman's Uniform Application for Individual Producer License Renewal/Continuation ("Renewal Application").

6. Prior to the Department's receipt of his Renewal Application, Mr. Brockman had not reported to the Director, or provided a copy of the information filed or any other relevant legal documents from, *State v. Brockman*.

7. Mr. Brockman answered "No" to Background Question 1A of the Renewal Application which asked, in relevant part:

Have you been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to this insurance department?

\* \* \*

"Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

If you answer yes to any of these questions, you must attach to this application:

- a) a written statement explaining the circumstances of each incident
- b) a copy of the charging document
- c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

8. Mr. Brockman did not attach to his Renewal Application any documents regarding the prosecution of *State v. Brockman*.

9. Mr. Brockman accepted by his electronic signature the Applicant's Certification and Attestation section of the Renewal Application which provided, in relevant part:

I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal

penalties.

10. Pursuant to § 375.141.1(1), the Director may discipline Mr. Brockman's resident insurance producer license if the Director finds he intentionally provided materially incorrect, misleading, incomplete, or untrue information in his Renewal Application by answering "No" to the background question regarding criminal history and failing to provide any documentation requested of applicants with criminal records.

11. Pursuant to § 375.141.1(2), the Director may discipline Mr. Brockman's resident insurance producer license if the Director finds he violated an insurance law, specifically § 375.141.7, if the Director finds he failed to report to the Director the prosecution of *State v. Brockman* within thirty days of the initial pretrial hearing date, or if the Director finds he failed to provide a copy of the information filed or any other relevant legal documents therefrom.

12. Pursuant to § 375.141.1(2), the Director may discipline Mr. Brockman's resident insurance producer license if the Director finds he violated an insurance law, specifically § 375.144(4), if the Director finds he indirectly engaged in an act or practice which operated as a fraud or deceit upon AFLAC by instructing the Producer to transmit to AFLAC unauthorized and materially false insurance policy applications.

13. Pursuant to § 375.141.1(2), the Director may discipline Mr. Brockman's resident insurance producer license if the Director finds he violated an insurance law, specifically § 375.144(4), if the Director finds he established fictitious businesses as AFLAC payroll groups in order to benefit from lower rates, thereby engaging in acts which operated as fraud or deceit upon AFLAC.

14. Each violation of an insurance law constitutes separate and sufficient cause to discipline a resident insurance producer license pursuant to § 375.141.1(2).

15. Pursuant to § 375.141.1(3), the Director may discipline Mr. Brockman's resident insurance producer license if the Director finds he obtained renewal of his insurance producer license through material misrepresentation or fraud if the Director finds he did not disclose his criminal record, as required by the Renewal Application, in order to conceal from the Director his Assault prosecution and thereby increase the likelihood of obtaining license renewal.

16. Pursuant to § 375.141.1(8), the Director may discipline Mr. Brockman's resident insurance producer license if the Director finds he used dishonest practices or demonstrated incompetence or untrustworthiness in the conduct of insurance business on behalf of AFLAC.

17. Mr. Brockman and the Division desire to settle the allegations raised by the Division.

18. Mr. Brockman has been advised and understands that he has the right to consult an attorney in this matter.

19. Mr. Brockman further acknowledges that he has been advised that he may, either at the time this Consent Order is signed by all parties or within fifteen (15) days thereafter, submit this Consent Order to the Administrative Hearing Commission for determination whether this Consent Order constitutes grounds for discipline of Mr. Brockman's insurance producer license.

20. Except as provided in paragraph 19 above, Mr. Brockman and the Division stipulate and agree to waive any rights to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order and forever mutually release and hold harmless each other, including the Department, the Director, and his agents, from all liability and claims arising out of, pertaining to, or relating to this matter.

21. This Consent Order is an administrative action and will be reported by the Department to other jurisdictions. This administrative action should be disclosed on future license applications and renewal applications in this state and in other jurisdictions where applicable and required, and it is Mr. Brockman's responsibility to comply with the reporting requirements of each jurisdiction in which he may be licensed.

22. The signatories below represent, acknowledge, and warrant that they are authorized to sign this consent.

### CONCLUSIONS OF LAW

23. Section 375.141, an insurance law, 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) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

(3) Obtaining or attempting to obtain a license through material misrepresentation or fraud; [or]

\* \* \*

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

\* \* \*

7. Within thirty days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution for a felony or a crime involving moral turpitude of the producer taken in any jurisdiction. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

24. Section 375.144, an insurance law, provides in relevant part:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

\* \* \*

(4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

25. Mr. Brockman does not agree with certain findings in the investigation and it is the position of Mr. Brockman that this Consent is a compromise of disputed facts and legal allegations and that the signing of this Consent and Mr. Brockman's consent to take the remedial actions required by it and to pay the voluntary forfeiture set forth in it does not constitute an admission of wrongdoing or liability on his part or any other person or entity's part and is done to fully and completely resolve the investigation in this matter.

26. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

27. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance of this Consent Order is in the public interest. This Consent Order embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not merely recital.

28. The parties agree that neither party is the prevailing party and enter into this agreement for the purposes of settlement only. Both parties bear their own attorneys' fees and costs.

29. Mr. Brockman, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an

opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above-referenced investigation.

30. This Consent Order shall be governed and construed in accordance with the laws of the State of Missouri.

31. This Consent Order shall not become effective until execution by the Director.

32. The signatories below request that the Director issue an order approving this consent and ordering the relief agreed to in this Consent Order, and consent to the issuance of such an order.

### **ORDER**

IT IS THEREFORE ORDERED that Jerry Lee Brockman, insurance producer licensee number 0180405, shall complete eight (8) total hours of continuing education on the topics of ethics and fraud prevention before March 24, 2018, in addition to the sixteen hours generally required by § 375.020, and submit proof of completion to the attention of Mark J. Rachel at the Missouri Department of Insurance, Financial Institutions and Professional Registration, 301 West High Street, Room 530, Jefferson City, Missouri 65101.

IT IS FURTHER ORDERED that for the next two (2) years or until his resident insurance producer license is suspended, surrendered, revoked, or expires, whichever is soonest:

1. Jerry Lee Brockman shall respond to all inquiries from the Consumer Affairs Division in accordance with 20 CSR 100-4.100, by sending via U.S. Mail an adequate response to the inquiry within twenty (20) days from the date the Division mails the inquiry.
2. Jerry Lee Brockman shall report to the Consumer Affairs Division any administrative action taken against him by any other state or federal governmental agency in Missouri or any other jurisdiction as required under Missouri law.



3. Jerry Lee Brockman shall report to the Consumer Affairs Division any and all of the following incidents involving Mr. Brockman: probation violation, probation revocation, guilty plea, nolo contendere plea, *Alford* plea, finding of guilt, or conviction concerning a felony or misdemeanor. Mr. Brockman shall report all such incidents as required under Missouri law and in connection with an application or renewal of a producer license.

IT IS FURTHER ORDERED that Jerry Lee Brockman shall pay the amount of one thousand dollars (\$1,000.00) as a forfeiture authorized by § 374.046.15, and pursuant to § 374.280 made payable to the State School Moneys Fund for the above-described violations, after being afforded the opportunity to consult legal counsel, in accordance with §§ 374.049.11 and 374.280.2 and Article IX, Section 7 of the Missouri Constitution. Such forfeiture shall be due immediately by money order or cashier's check made payable to the State School Moneys Fund, and shall be forwarded with this executed Consent Order to the attention of Mark J. Rachel, Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri 65102. Any correspondence and/or money order or cashier's checks shall reference the case name and number appearing at the top of this Consent Order.

IT IS FURTHER ORDERED that Jerry Lee Brockman shall submit a completed and executed Statement of Compliance, attached hereto as Exhibit 1, within thirty (30) days of his completion of probation in *State v. Jerry Lee Brockman*, Boone Co. Cir. Ct., Case No. 15BA-CR02569.


IT IS FURTHER ORDERED that if Jerry Lee Brockman fully complies with the terms of this Consent Order, he may apply to renew his resident insurance producer license and the Director shall consider any renewal application in accordance with Chapters 374 and 375, but

without regard to the investigation which is the subject matter of this Consent Order.

IT IS FINALLY ORDERED that the Director may pursue any available legal remedies as determined appropriate by the Director for violating or failing to comply with the terms and conditions of this Consent Order.

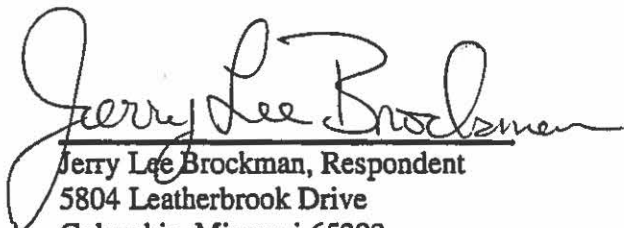
SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10<sup>TH</sup> DAY OF  
JANUARY, 2017.



  
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**JOHN M. HUFF, Director**  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Jerry Lee Brockman has the right to a hearing, but that Jerry Lee Brockman has waived the hearing and agreed to the issuance of this Consent Order. The signatories below request that the Director issue an order approving this consent and ordering the relief agreed to in this Consent Order, and consent to the issuance of such an order.

  
Jerry Lee Brockman, Respondent

5804 Leatherbrook Drive  
Columbia, Missouri 65203  
Telephone: (573) 356-8450

01-06-2017  
Date



Ann Monaco Warren, Missouri Bar #43366  
English & Monaco, P.C.  
Counsel for Jerry Lee Brockman  
237 East High Street  
P.O. Box 671496  
Jefferson City, Missouri 65102  
Telephone: (573) 634-2522  
Facsimile: (573) 634-4526

January 6, 2017  
Date

  
Mark J. Rachel, Missouri Bar #66167  
Counsel for Consumer Affairs Division  
Department of Insurance, Financial  
Institutions and Professional Registration  
301 West High Street, Room 530  
Jefferson City, Missouri 65101  
Telephone: (573) 751-2619  
Facsimile: (573) 526-5492  
Mark.Rachel@insurance.mo.gov

6 January 2017  
Date

**EXHIBIT 1**

**TO:** Missouri Department of Insurance, Financial  
Institutions and Professional Registration  
attn.: Legal Section  
301 West High Street, Room 530  
Jefferson City, Missouri 65101

**RE:** Statement of Compliance  
*State of Missouri v. Jerry Lee Brockman,*  
Boone Co. Cir. Ct., Case No. 15BA-CR02569  
DIFP Case No. 141119743C

I, Jerry Lee Brockman, hereby truthfully state under penalty of perjury that I completed all probation as ordered in *State of Missouri v. Jerry Lee Brockman*, Boone County Circuit Court, Case No. 15BA-CR02569, on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed: \_\_\_\_\_ Date \_\_\_\_\_  
Jerry Lee Brockman

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal  
this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary

My commission expires: \_\_\_\_\_