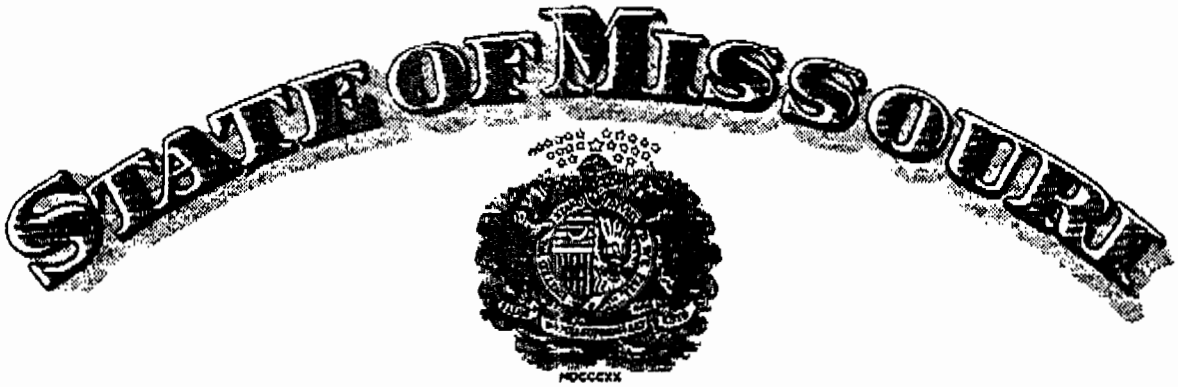

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

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DEPT OF INSURANCE FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

In the Matter of:	)	
	)	**Case No. 060522213C**
JOSEPH D. FROST,	)	
	)	
Respondent.	)	

CONSENT ORDER

JOHN M. HUFF, Director of the Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through Andy Heitmann, counsel, and Joseph D. Frost have reached a settlement in this matter and have consented to the issuance of this Consent Order.

Findings of Fact

1. John M. Huff is the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director"), whose duties, pursuant to Chapters 374 and 375, include supervision, regulation and discipline of insurance producers.

2. The Consumer Affairs Division ("Consumer Affairs Division") of the Department of Insurance, Financial Institutions and Professional Registration ("Department") has the duty of conducting investigations into the unlawful or unfair acts of insurance producers and insurance companies under the laws and regulations of the State of Missouri and has been authorized by the Director to initiate this action before the Director to enforce the insurance laws of this state.

3. On November 23, 2005, Respondent Joseph D. Frost ("Respondent Frost") filed an application with the Department for an insurance producer license.

4. In that application, Respondent Frost answered "yes" to the question "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

5. Respondent Frost had been charged by the Prosecuting Attorney of St. Louis County, Missouri with Criminal Nonsupport under § 568.040, RSMo (2000).

6. On April 10, 2006, Respondent Frost agreed to plead guilty to the charge of Criminal Nonsupport in exchange for a Suspended Imposition of Sentence, and on August 1, 2006 Respondent Frost was given a Suspended Imposition of Sentence as agreed in the plea.

7. As a condition of probation, Respondent Frost agreed to pay a total of $300 per month in child support.

8. On August 14, 2006, a Consent Order ("2006 Consent Order") was executed between the Department and Respondent Frost, under which the Department granted Respondent Frost an insurance producer license subject to certain conditions.

9. Under the 2006 Consent Order, Respondent Frost was required, as conditions of his licensure, to:

a. Comply with all conditions of his probation in the Criminal Nonsupport case, and

b. Submit proof to the Department each month of his continued compliance with the financial conditions of his probation in the Criminal Nonsupport case.

10. At paragraph 8, the 2006 Consent Order provided that:

> The Director is authorized to enforce this order and should Frost fail to comply with the conditions set forth herein, the Director or his successors, without any limitation, may suspend, revoke, or refuse to renew Frost's producer license on the ground of his failure to comply with a lawful court order imposing child support obligations, or initiate any other action authorized by law to enforce this order.

11. On September 8, 2008 the Department renewed Respondent Frost's license, but began investigating whether Respondent Frost had complied with the terms of the 2006 Consent Order.

12. In the course of that investigation, the Department determined that the Department had no monthly reports from Respondent Frost to show his continued payment of child support as required by his probation conditions in the Criminal Nonsupport case.

13. On October 3, 2008, Investigator Sheri Sloan ("Investigator Sloan") sent a letter to Respondent Frost asking whether he had complied with the conditions of his probation in the Criminal Nonsupport case, and whether and how he had complied with the requirement that he send monthly proof to the Department of his continued payment of child support.

14. Having received no response, Investigator Sloan sent a second letter on November 12, 2008, reiterating the questions contained in the October 3, 2008 letter, and requiring a detailed written response by December 8, 2008.

15. On December 8, 2008, Investigator Sloan received a phone call from Respondent Frost's attorney, followed by a fax transmission and, on December 10, 2008, a mailed version of the fax transmission, indicating that though Respondent Frost was, and had thus far been, in compliance with the conditions of his probation, he had not complied with the 2006 Consent Order. Respondent Frost's attorney further indicated that Respondent Frost was willing to enter into a new Consent Order.

16. Respondent 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 that the facts agreed to by the parties to the settlement constitute grounds for disciplining Respondent's license.

17. Respondent stipulates and agrees to waive any rights that he may have 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 release and hold harmless the Department, the Director and her agents, and the Consumer Affairs Division from any and all liability and claims arising out of, pertaining to or relating to this matter.

Conclusions of Law

18. The Director may impose orders in the public interest under § 374.046, RSMo (Supp. 2008).

19. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

CONSENT ORDER TERMS

The undersigned agree that Joseph D. Frost may continue to hold an insurance producer license (License No. 377307), expiring September 8, 2010, so long as Frost abides by the terms of this Order and otherwise complies fully with the insurance laws of Missouri and every other state in which he is licensed. The undersigned agree that failure to comply with any of the following conditions shall constitute cause for immediate revocation of Frost's insurance producer license through the following procedure.

If the Director receives information that Frost has failed to comply with any of the following terms, the Director shall, upon at least thirty (30) days' notice to Frost, hold a hearing, at which both the Division of Consumer Affairs, through counsel, and Frost, on his own behalf or through counsel, may present evidence on the issue of whether Frost failed to comply with one or more of the following terms. The undersigned agree that after the hearing, upon making a finding that Frost in fact did fail to satisfy any of the following conditions, the Director may immediately **REVOKE** Frost's insurance producer license without any need for findings of fact and conclusions of law to be made by the Administrative Hearing Commission or by any other tribunal.

If Frost complies with this Order and maintains his license until August 1, 2010, Frost may then or at any time thereafter apply for renewal of his license and the

Department shall consider such application without regard to Frost's conduct addressed and remedied in this or the 2006 Consent Orders.

The undersigned agree to the following as the terms with which Frost must comply:

1. IT IS ORDERED THAT Frost shall within ten (10) days of signing this Order submit to the Consumer Affairs Division records certified by the Missouri Department of Social Services, Family Support Division, showing Frost's compliance with his child support obligations as set out in his 2006 conditions of probation for Criminal Non-Support. These records shall cover those payments required by Frost's probation between August 1, 2006 and September 8, 2008, inclusive.

2. IT IS FURTHER ORDERED THAT Frost shall maintain full compliance with child support obligations at least until September 8, 2010.

3. RESPONDENT FROST REPRESENTS AND WARRANTS THAT as of the date he signs this Consent Order he is fully in compliance with his child support obligations—that is, that he has made all child support payments required under his conditions of probation for Criminal Nonsupport. Respondent Frost further warrants and represents that he will remain fully in compliance with his child support obligations at least until September 8, 2010, when his current license expires. Respondent Frost acknowledges and agrees that if at any time he fails to timely make any child support payment required under his conditions of probation, as reflected in the records of the Missouri Department of Social Services, Family Support Division, such failure, if found by the Director to have occurred, shall constitute a failure to satisfy the conditions of this

Consent Order and shall be grounds for immediate revocation of Respondent Frost's insurance producer license.

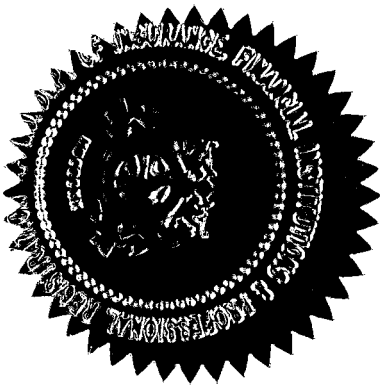
4. IT IS FURTHER ORDERED AND AGREED THAT Frost, by signing this Consent Order, authorizes the Director to obtain from the Missouri Department of Social Services, Family Support Division, records of Frost's payment history showing compliance or non-compliance with his child support obligations between August 1, 2006 and September 8, 2010, inclusive. Frost agrees that he intends his signature below as a release of such records to the Department.

5. IT IS FURTHER ORDERED THAT Frost shall pay to the State of Missouri and deliver to the Department the amount of five hundred dollars ($500.00), as authorized by § 374.046.15 RSMo (Supp. 2008), to be deposited into the school fund as provided for by law for other fines and penalties in § 374.280, RSMo (Supp. 2008). Such payment shall be immediately due and payable to the State of Missouri by money order or cashier's check and Respondent shall pay the amount ordered above in satisfaction of this Consent Order no later than ten (10) days after its execution by all the undersigned. If Respondent fails to make the payment under the terms of this provision, the Director may pursue any legal remedies to enforce this order and collect the unpaid balance of this Consent Order or revoke Respondent's license.

6. IT IS FURTHER ORDERED THAT Frost shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance during the term of his current insurance producer license unless he first obtains written permission from the Director to do so. For purposes of this Order, the terms "sell, solicit or negotiate insurance" shall have the same meaning as in § 375.014, RSMo (Supp. 2008).

EACH signatory to this Consent Order certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to agree to the facts, terms and provisions of this Consent Order in their entirety, and agrees, in his or her personal or representational capacity, to be bound by the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 30th **DAY OF** November, **2009.**



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

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondents have the right to a hearing, but that Respondents have waived the hearing and consented to the issuance of this Consent Order.

Joseph D. Frost
Respondent
2 Middlebury
St. Louis, MO 63017

11-2-09
Date

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11/2/09
Date

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11/6/09
Date