BEFORE THE DIRECTOR OF
INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
STATE OF MISSOURI

IN RE:	)	
	)	DIFP Case No. 060719257C
CARL ROTHERMICH,	)	AHC Case No. 06-1608DI
	)	
Respondent.	)	

CONSENT ORDER

Now on this 30th day of May, 2008, Douglas M. Ommen, Director of the Department of Insurance, Financial Institutions and Professional Registration, after a disciplinary hearing, with the consent of the Respondent and in consideration of the full record in the matter, hereby makes the following findings of fact, conclusions of law and order:

Findings

1. Douglas M. Ommen is the Director of the Department of Insurance, Financial Institutions and Professional Registration (hereafter, "Director") whose duties, pursuant to Chapter 375, RSMo, include the supervision, regulation, and discipline of insurance producers.

2. Carl Rothermich ("Rothermich") started in the insurance business in 1959 and was issued an insurance agent license on September 26, 1968. His license remains active and in good standing.

3. The Director authorized the filing of a complaint with the Administrative Hearing Commission on November 13, 2006, seeking a finding that sufficient cause existed for disciplining Rothermich's insurance producer license, based on information and allegations that he was subject to discipline under §375.141.1(1), RSMo, or alternatively §375.141.1(2), RSMo

(Cum. Supp. 2005) and §375.141.1(4), RSMo, or alternatively §375.141.1(8), RSMo (Cum. Supp. 2005).

4. On July 25, 2007, a hearing was held on the Director's Complaint before the Administrative Hearing Commission. Rothermich presented his case. The Director was represented by counsel, Kevin Hall.

5. On November 29, 2007, the Administrative Hearing Commission issued its decision, finding cause to discipline the producer license of Rothermich pursuant to §375.141.1(1), RSMo for taking loans from a client. ***Director vs. Carl Rothermich***, Case No. 06-1608 DI. (hereafter "AHC Decision").

6. On December 31, 2007, the Administrative Hearing Commission certified the record of its proceeding to the Director pursuant to § 621.110, RSMo.

7. The Director mailed to Rothermich a notice of disciplinary hearing to be held at 1:30 p.m. on January 23, 2008, in the offices of the Director of Insurance, Financial Institutions and Professional Registration, 301 West High Street, Room 530, Jefferson City, Missouri.

8. Rothermich appeared without counsel. At the hearing, Elfin Noce, as counsel for the Consumer Affairs Division, presented the AHC Decision and the record of the proceeding. Evidence was received and arguments were made.

9. The Director herein adopts and incorporates the AHC Decision referenced herein, and finds in accordance with the same.

10. Rothermich is now represented by counsel and has asked to resolve this matter by entry of this consent order.

Conclusion of Law

11. The Director has found that he has grounds to discipline the insurance producer license of Rothermich pursuant to §375.141.1(1), RSMo. Section 375.141.1 provides that the Director "may" suspend or revoke the license on these grounds. "May" means an option, not a mandate. ***S.J.V. ex rel. Blank v. Voshage***, 860 S.W.2d 802, 804 (Mo.App., E.D.1993). This discretion is vested with the Director. §§374.051.2, 375.141 and 621.110, RSMo.

12. The Director has the authority to issue orders pursuant to §374.046, RSMo 2007, including prohibiting violations of law and ordering payment of investigative costs and other relief.

Discretion

13. Based on a review of the AHC Decision and the full record of the proceedings in this matter, the Director concludes that with the entry of this Consent Order discipline of Rothermich is not required.

Probation

IT IS NOW, THEREFORE, ORDERED that based on the record as a whole and the evidence presented, the insurance producer license of Carl Rothermich is hereby SUSPENDED for a period of two years, but this provision shall be STAYED and the license of Carl Rothermich shall remain in good standing subject to the following probationary conditions:

A. Carl Rothermich shall comply with this order and the laws and insurance regulations of this state; and

B. Carl Rothermich shall immediately notify the Director should he fail to maintain an irrevocable life insurance policy as provided for in St. Charles County Case No. 0511-CV00337.

Prohibited Conduct

IT IS FURTHER ORDERED that Carl Rothermich shall cease and desist any violation of the insurance laws and regulations of this state, and further shall neither violate, nor fail to comply in any manner with 20 CSR 700.1-140(4), or obtain or solicit a loan from any insurance client or former or prospective client, unless the transaction has been specifically approved by the Director.

Costs of Investigation

IT IS FURTHER ORDERED that Carl Rothermich shall, pursuant to §374.046, RSMo (Cum. Supp. 2007), pay the amount of one thousand dollars ($1000.00) to the Insurance Dedicated Fund and that such payments shall be immediately due and payable.

SO ORDERED.

May 30, 2008
Date

Douglas M. Ommen
Director

Consented to by:

Carl Rothermich

SHEA, KOHL, ALESSI & O'DONNELL, LLC

Attorney for Respondent