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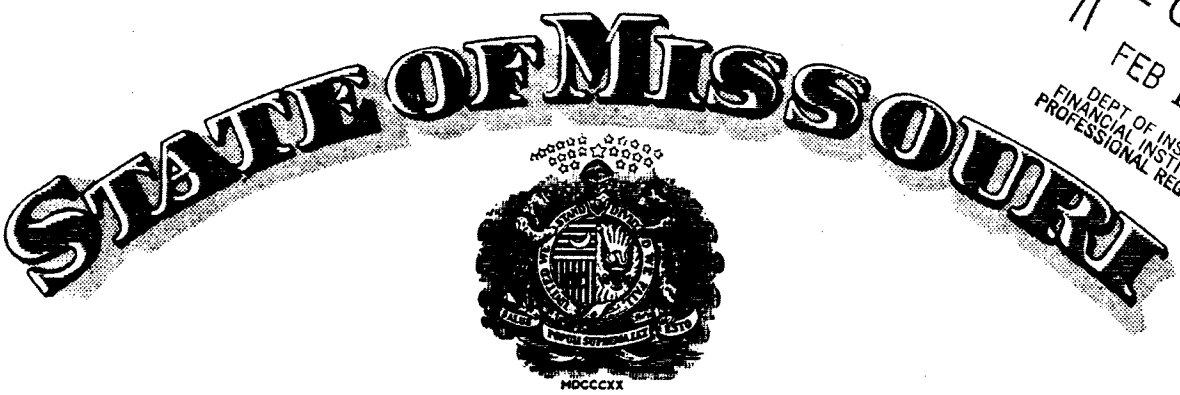
DEPT. OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	**DIFP Case No. 081027527C**
KYLE LABRUE,	)	
	)	
Respondent.	)	

CONSENT ORDER

JOHN M. HUFF, Acting Director of the Department of Insurance, Financial Institutions and Professional Registration ("Department") takes up the above matter for consideration and disposition. The Consumer Affairs Division of the Department of Insurance, Financial Institutions and Professional Registration ("Consumer Affairs Division"), through legal counsel Elfin Noce, and Kyle LaBrue ("Respondent") have reached a settlement in this matter and the parties have consented to the issuance of this Consent Order.

Findings of Fact

1. Pursuant to Chapters 374 and 375, RSMo, the duties of the Director of the Missouri Department of Insurance, Financial Institutions, and Professional Registration

(hereinafter, "Director") include supervision, regulation and discipline of insurance producers.

2. The Consumer Affairs Division has the duty of conducting investigations into the unfair or unlawful acts of insurance companies and agents under the insurance laws of this state and has been authorized by the Director to initiate this action before the Director to enforce the insurance laws of this state.

3. 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 because reoccurrence of the conduct cited herein as grounds for discipline may harm the public.

4. The Department issued Respondent an insurance producer license (No. PR373078) on June 21, 2006, which was subsequently renewed and is scheduled to expire on June 21, 2010.

5. On or about October 10, 2008, the Consumer Affairs Division referred Investigation File No. 08A000095, concerning Respondent, to the Director seeking to discipline Respondent's insurance producer license.

6. The Consumer Affairs Division alleged, and Respondent agrees, that Respondent misrepresented applications for a group enrollment by omitting vital health information for the purpose of delivering more favorable premium rates, an unfair trade practice as defined by § 375.936(7), RSMo (2000), and a ground for discipline under § 375.141.1(2), RSMo (Supp. 2008).

7. The Consumer Affairs Division alleged, and Respondent agrees, that Respondent signed the name of another to an application for insurance without authorization, a ground for discipline under § 375.141.1(10), RSMo (Supp. 2008).

8. The Consumer Affairs Division alleged, and Respondent agrees, that Respondent allowed an unlicensed individual to complete insurance applications incorrectly, which is a ground for discipline under § 375.141.1(8), RSMo (Supp. 2008).

9. On or about February 6, 2009, counsel for the Consumer Affairs Division sent a copy of the Division's investigation report to Respondent. The investigation report described the specific conduct for which discipline was sought and citation to the law and rules allegedly violated, along with documents that were the basis thereof. Respondent was advised that Respondent had sixty (60) days to review the investigation report and consider the proposed Consent Order.

10. Respondent has been advised that he may, either at the time the Consent Order is signed by all parties, or within fifteen (15) days thereafter, submit the Consent Order to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the Consent Order constitute grounds for disciplining Respondent's license.

11. Respondent has stipulated and agreed to waive any right that he may have to a hearing before the Administrative Hearing Commission and any right to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order and forever releases and holds harmless the Department, the Director, the Director's agents, and the Consumer Affairs Division from any and all liability and claims arising out of, pertaining to or relating to this matter.

12. Jerry LaBrue, insurance producer number PR187153, by signing this Consent Order, agrees that he shall act as a designated licensed individual insurance producer personally responsible for Respondent's compliance with the insurance laws, rules, and regulations of this state.

13. The Director is authorized to enforce this Consent Order and should Respondent or Jerry LaBrue fail to comply with the conditions set forth herein, the Director or the Director's successors, without any limitation, may initiate any action authorized by law.

Conclusions of Law

12. The Consumer Affairs Division is authorized to settle this matter and the Director is authorized to issue this Consent Order in the public interest pursuant to §§ 374.046, 374.280, 375.141, and 621.045, RSMo (Supp. 2008).

13. The facts alleged by the Consumer Affairs Division and agreed to by Respondent constitute grounds to discipline Respondent's insurance producer license pursuant to §§ 375.141.1(2), 375.141.1(8) and 375.141.1(10), RSMo (Supp. 2008).

Consent Order Terms

IT IS ORDERED that Respondent complete ten (10) hours of continuing education courses, of which three (3) hours must be on ethics in the insurance business, by August 31, 2009. This ten (10) hours of continuing education is in addition to any other continuing education required by state law. At least one of these courses must be an in-person lecture; however, given limited availability of classes, Respondent may complete the remaining hours online or through self-study. A list of suitable courses is attached as Exhibit A, which is incorporated by reference. Other courses not listed may be accepted with prior approval from the Director. Proof of successful completion of these courses must be submitted to the Department and to the Designated Producer by August 31, 2009.

IT IS FURTHER ORDERED that Respondent shall pay the amount of two thousand five hundred dollars ($2,500.00), as authorized by § 374.046.15 RSMo (Supp. 2008), paid 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 issuance. If Respondent fails to make the payment under the terms of this provision, the Director may pursue additional legal remedies to enforce this order and collect the unpaid balance of this Consent Order.

IT IS FURTHER ORDERED that, until June 21, 2010, Respondent shall not act as an insurance producer in the state of Missouri unless Respondent has a designated licensed individual insurance producer ("Designated Producer") personally responsible for Respondent's compliance with the insurance laws, rules, and regulations of this state, as well as Respondent's full compliance with the terms and conditions of this Consent Order. As such, the Designated Producer is required to report any violation of the terms set out herein, and is also required to report any consumer complaint regarding Respondent, to the Consumer Affairs Division within five (5) business days of becoming aware of the violation or complaint. Jerry LaBrue, insurance producer license number PR187153, by signing this Consent Order agrees that he shall act as the Designated Producer. If the Designated Producer, at some time after issuance of this Consent Order, is unable or unwilling to continue to supervise Respondent prior to June 21, 2010, Designated Producer or Respondent shall notify the Department in writing of Designated Producer's withdrawal as Designated Producer. Respondent may, with approval from the division director of the Consumer Affairs Division, designate another Designated Producer to be responsible for Respondent's compliance with this state's insurance laws, rules, and regulations.

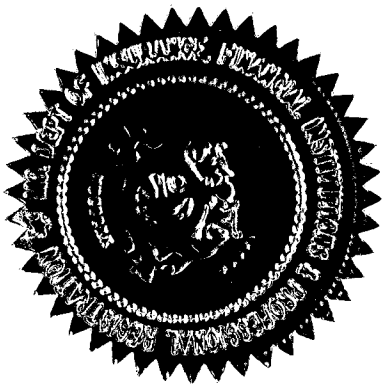
IT IS FURTHER ORDERED that any violation of this Consent Order by Respondent or Designated Producer is grounds for the immediate suspension of

Respondent's or Designated Producer's insurance producer license without the necessity of an Administrative Hearing Commission determination, however, Respondent or Designated Producer is entitled to a hearing before the Director to determine if the Consent Order was violated.

IT IS FURTHER ORDERED any payments ordered by this Consent Order shall be hand delivered or sent by certified mail to the Missouri Department of Insurance, Financial Institutions and Professional Registration, Attention Elfin Noce, Legal Counsel, P.O. Box 4001, Jefferson City, Missouri 65101. Any correspondence ordered by this Consent Order shall be hand delivered or sent by certified mail to the Missouri Department of Insurance, Financial Institutions and Professional Registration, Attention Elfin Noce, Legal Counsel, P.O. Box 690, Jefferson City, Missouri 65102. Any correspondence and/or checks shall reference the above cited case number.

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 accept the 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 26th DAY OF February, 2009.



John M. Huff, Acting Director of the
Missouri Department of Insurance,
Financial Institutions & Professional
Registration

CONSENT AND WAIVER OF HEARING

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

Kyle LaBrue
Respondent
1523 Bear Paw
Camdenton, Missouri 65020

2-16-09
Date

Name: _____
Counsel for Kyle LaBrue, if any
Missouri Bar Number: _____
Firm: _____
Address: _____
_____
Telephone: _____
Facsimile: _____

_____
Date

Jerry LaBrue
Designated Producer
4661 Scout St.
Osage Beach, Missouri 65065

2-16-09
Date

Name: _____
Counsel for Jerry LaBrue, if any
Missouri Bar Number: _____
Firm: _____
Address: _____
_____
Telephone: _____
Facsimile: _____

_____
Date

Elfin Noce
Counsel for the Consumer Affairs Division
Missouri Bar # 57682

2/26/09
Date

Missouri Department of Insurance, Financial
Institutions & Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-2619
Fax: (573) 526-5492

Exhibit A

Acceptable Courses to Meet Continuing Education Requirement:

AD Banker and Company:
Ethics and the Consumer
Ethics for the Insurance Professional
Insurance Ethics
Insurance Fraud and Ethics
Needs of an Aging Population
Understanding the HSA Strategy
Retirement Planning Design

C E Solutions:
Ethics in Life
Ethics, Compliance & Market Conduct
Ethical Insurance

Kaplan Financial:
The Ethical Insurance Producer
Insurance Ethics and Consumer Protection 1st Edition

Missouri Association of Insurance Agents:
Hard Truth About Ethics
Agency Procedures

NAIFA – Missouri:
Missouri State Insurance Law
Ethics

WebCE:
Ethics for Producers: Cases and Comments
Ethics for the Insurance Services Practitioner

Contact information for these providers can be found on the Missouri Department of Insurance, Financial Institutions and Professional Registration website at http://www.insurance.mo.gov/industry/producer/CEsearch.htm.