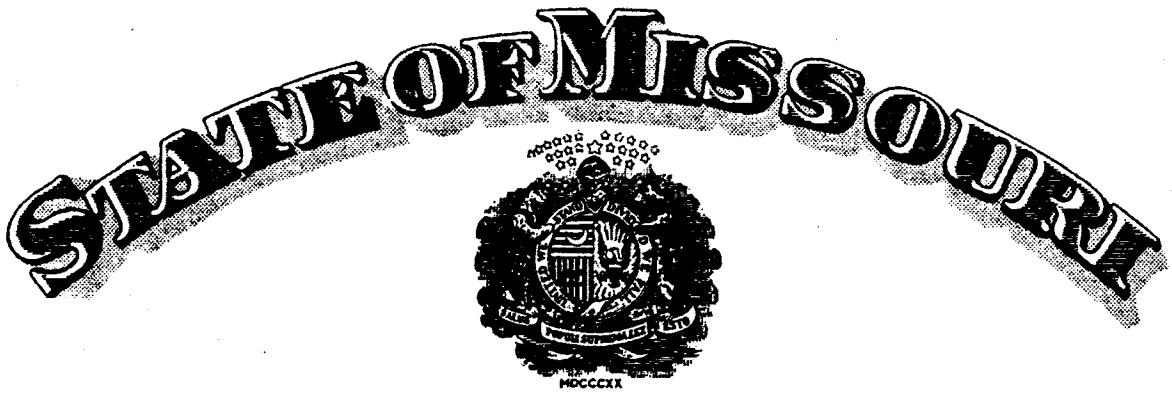


DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

LEGAL DEPT.

DEC 29 2008

MO. DEPT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

In the Matter of:	)	
	)	
DAWN R. HARPSTER,	)	
	)	**DIFP File No. 07A000241**
Respondent.	)	08102752 8C
	)	

CONSENT ORDER

LINDA BOHRER, Acting Director of the Department of Insurance, Financial Institutions and Professional Registration takes up the above matter for consideration and disposition. The Division of Consumer Affairs, through legal counsel Andy Heitmann, and Dawn R. Harpster have reached a settlement in this matter and have consented to the issuance of this Consent Order.

1. Linda Bohrer is the Acting Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, "Director") whose duties, pursuant to Chapters 374, 375 and 381, RSMo, include supervision, regulation and discipline of insurance producers.

2. The Consumer Affairs Division has the duty of conducting investigations into the acts of insurance producers under the insurance laws of this state and is authorized

by the Director to investigate and to recommend enforcement action for violations of the insurance laws of this state.

3. The Department issued Respondent Dawn R. Harpster ("Respondent Harpster") an insurance agent license (License No. AT497900539) in March 2002. That license was converted by law to an insurance producer's license (License No. PR193035) in January 2003. Such license was revoked by operation of law on July 23, 2004 for tax noncompliance and has not been reinstated.

4. On or about October 21, 2008, the Consumer Affairs Division referred Investigation File Number 07A000241, concerning Respondent Harpster, to the Director seeking to discipline Respondent's insurance license.

5. The Consumer Affairs Division alleged that Respondent Harpster employed a deception, device, scheme or artifice to defraud; violated the insurance laws of Missouri by failing to appear in response to a lawful subpoena duces tecum issued to Respondent Harpster by the Department; was convicted of a felony by pleading guilty to bank fraud; and engaged in fraudulent and dishonest practices. See § 375.141.1(2) ,(6) and (8), RSMo (Supp. 2007), and § 374.210.3, RSMo (Supp. 2007).

6. An Information issued by the United States District Court for the Western District of Missouri, Western Division on November 28, 2007, alleged that Respondent Harpster knowingly executed and attempted to execute a scheme and artifice to defraud and to obtain money, funds, credits and other property owned by and under the custody and control of a financial institution by means of material false and fraudulent pretenses in violation of Title 18, United States Code, Section 1344.

7. The November 28, 2007 Information alleged that as part of a scheme and artifice to defraud and to obtain money, funds, credits and other property owned by and under the custody and control of a financial institution by means of material false and fraudulent pretenses, representations and promises, taking place between on or about March 2006 and on or about December 26, 2006, Respondent Harpster represented to Norbank, a financial institution formerly doing business as North Kansas City Bank, that:

a. Respondent Harpster had entered into contracts with the Church of Jesus Christ of Latter-Day Saints in Salt Lake City ("LDS Church"), under which the LDS Church was to purchase certain properties located in Missouri from Respondent Harpster;

b. Respondent Harpster would use funds, if loaned from Norbank, to purchase the properties subject to those contracts;

c. Respondent Harpster would then sell those properties to the LDS Church at a price not less than $1,300 per acre greater than either her purchase price or the appraised value of the properties;

d. Respondent Harpster would close the sale of those properties within one year and ten days of purchasing the properties; and

e. Northwest Missouri Title Company, LLC ("Northwest Missouri Title"), would handle the closing and would obtain title insurance for the purchases.

8. The November 28, 2007 Information further alleged that, in the course of the alleged scheme:

a. Respondent Harpster submitted false and fraudulent contracts for the sale and purchase of real estate in connection with applications for loans from Norbank;

b. Norbank approved the loans and authorized Northwest Missouri Title to close the loans in reliance on the false and fraudulent representations made by Respondent Harpster;

c. Respondent Harpster falsely and fraudulently represented to Norbank that she had obtained a title commitment and title insurance through Northwest Missouri Title and through Land Title Insurance Company of St. Louis for each of the properties, and to that end provided false and fraudulent insurance documents to Norbank;

d. Respondent Harpster falsely and fraudulently represented to Norbank that she had recorded deeds of trust in favor of Norbank, securing Norbank's loans on the properties;

e. Norbank, in reliance on the false and fraudulent representations made by Respondent Harpster, authorized disbursement of the proceeds of each loan, by cashier's checks, in the total amount of $866,810;

f. Respondent Harpster thereafter used the proceeds of the fraudulently obtained loans for personal expenditures and not for the purposes she represented to Norbank.

9. On or about November 28, 2007, Respondent Harpster entered into a Plea Agreement with the United States, through United States Attorney John F. Wood, in which

Respondent Harpster pleaded guilty to Counts One through Five of the Information charging her with violations of 18 U.S.C. § 1344.

10. According to the terms of the Plea Agreement, Respondent Harpster admitted that she knowingly committed the offenses charged in the Information and now alleged in paragraphs 7 and 8 of this Consent Order, and that she was in fact guilty of those offenses.

11. According to the terms of the Plea Agreement, Respondent Harpster agreed to the facts constituting the offenses as set out in the Information and in all material respects set out in paragraphs 7 and 8 of this Consent Order.

12. On or about October 8, 2008, the United States District Court for the Western District of Missouri, Western Division, adjudicated Respondent Harpster guilty of the five counts of violation of 18 U.S.C. § 1344, bank fraud, as alleged in the November 28, 2007 Information and as agreed and admitted to by Respondent Harpster in the November 28, 2007 Plea Agreement.

13. On or about January 22, 2008, the Department, through former director Douglas Ommen, issued a subpoena duces tecum to Respondent Harpster, ordering Respondent Harpster to appear on February 13, 2008 at 1:00 p.m. at the Department, to answer questions concerning the business of title insurance and to produce certain records to the Department.

14. The Department sent the subpoena by certified mail, for delivery of which Respondent Harpster signed on January 24, 2008.

15. On or about February 13, 2008, the subpoena conference at which Respondent Harpster had been ordered to appear took place at the Department.

16. Respondent Harpster failed to appear at the subpoena conference on February 13, 2008, and failed to inform the Department before that date that she had any reason not to appear as ordered by the subpoena duces tecum.

17. On or about February 22, 2008, Respondent Harpster contacted Department Investigator Carrie Couch, asked to reschedule the subpoena conference and provided Investigator Couch with contact information for her attorney.

18. In an attempt to arrange a rescheduled subpoena conference, Investigator Couch contacted Respondent Harpster's attorney; Respondent Harpster's attorney agreed to provide Investigator Couch with a list of available dates upon which the subpoena conference could be rescheduled.

19. Respondent Harpster's attorney failed to contact Investigator Couch as agreed with a list of available dates; Investigator Couch mailed a letter to Respondent Harpster's attorney on March 24, 2008, giving Respondent Harpster until April 11, 2008 with a list of available dates.

20. To date, the Department has not received a list of available dates from either Respondent Harpster or her attorney.

21. On July 23, 2004, Respondent Harpster's insurance producer license (PR193035) was revoked for tax noncompliance.

22. Respondent Harpster's insurance producer license remains revoked by operation of law for tax noncompliance and has not been reinstated.

23. Despite the revocation in 2004, Respondent Harpster has engaged in the business of insurance since that time, including by purporting to arrange for title insurance

and closing on real estate purchases, as part of the scheme to defraud Norbank described in paragraphs 7 and 8 of this Consent Order.

24. Respondent Harpster has the right to consult counsel at her own expense.

25. On or about November 18, 2008, counsel for the Consumer Affairs Division sent a copy of the Division's investigation report to counsel for Respondent Harpster. The investigation report described the specific conduct for which discipline was sought and citation to the law and rules allegedly violated, along with documents which were the basis thereof. Counsel for the Division advised that Respondent had sixty (60) days review the investigation report and consider the proposed settlement offer.

26. Respondent Harpster has been advised that she 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 settlement constitute grounds for disciplining Respondent's license.

27. Respondent stipulates and agrees to waive any rights that she 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 releases and holds 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

28. The allegations raised by the Consumer Affairs Division and the Indictment, if proven, are grounds to discipline Respondent Harpster's insurance license.

a. Respondent Harpster's misrepresentations, alleged in paragraphs 7 and 8 of this Consent Order, constitute the use of fraudulent or dishonest practices in the conduct of business in this state, and as such amount to cause for discipline to her insurance producer license under § 375.141.1(8), RSMo (Supp. 2007).

b. The adjudication by the United States District Court for the Western District of Missouri, Western Division that Respondent Harpster was and is guilty of five counts of violating 18 U.S.C. § 1344, bank fraud, constitutes Respondent Harpster's having been convicted of a felony or crime involving moral turpitude, grounds for discipline to Respondent Harpster's insurance producer license under § 375.141.1(6), RSMo (Supp. 2007).

c. Respondent Harpster failed to report to the director within thirty days of the initial pretrial hearing date the criminal prosecution of her by the United States for bank fraud, a felony and a crime involving moral turpitude, as required by § 375.141.7, RSMo (Supp. 2007). This failure is a violation of § 375.141.7, RSMo (Supp. 2007), an insurance law of Missouri, and, as such, is a ground for discipline under § 375.141.1(2), RSMo (Supp. 2007).

d. Respondent Harpster failed to appear at the subpoena conference held on February 13, 2008 at the Department, despite her receipt of the subpoena duces tecum ordering her to appear at the subpoena conference. This failure is a failure to obey a subpoena and, as such, is a ground for revocation of Respondent Harpster's insurance producer license under § 374.210.2, RSMo (Supp. 2007).

29. The temporary revocation by operation of law of Respondent Harpster's license for tax noncompliance does not deprive the Department of jurisdiction to permanently revoke the license for the protection of the public. *See Dir. of Insurance v. Polsky*, No. 04-1351 DI (Admin. Hearing Comm'n June 23, 2005).

30. The Director is authorized to settle this matter and the Director is authorized to issue this Consent Order in the public interest pursuant to sections 374.046, RSMo (Supp. 2007) and 374.280, RSMo (2000).

31. The Director is authorized to enforce this Consent Order and should Respondents fail to comply with the conditions set forth herein, the Director or her successors, without any limitation, may initiate any action authorized by law, including referral of this case to criminal prosecutors.

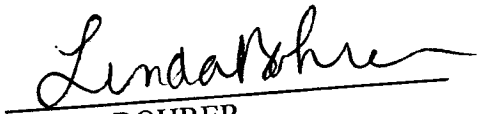
32. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

ORDER

IT IS ORDERED THAT Dawn Renee Harpster's insurance producer license (License No. PR193035) is hereby **REVOKED**.

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 30th **DAY OF** December, 2008.



LINDA BOHRER
Acting 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.

Dawn Harpster

Dawn R. Harpster
Respondent
14724 State Highway TT
Kidder, MO 64649

12-18-08
Date

John P. O'Connor
Counsel for Dawn R. Harpster
Missouri Bar No. _____
Address: _____
_____
Telephone: _____
Facsimile: _____

Date

Andy Heitmann
Counsel for Consumer Affairs Division
Missouri Bar No. 60679
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11/24/08
Date