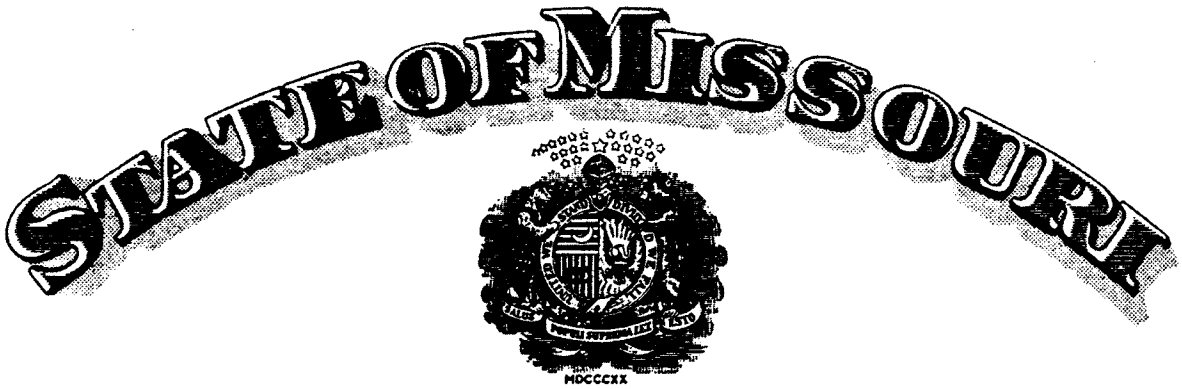

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	
CHRIS HERBOLSHEIMER	)	**DIFP Case No. 0902061658C**

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 legal counsel Tamara W. Kopp, and Chris Herbolsheimer have reached a settlement in this matter and have consented 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 (hereinafter, "Director") whose duties, pursuant to Chapters 374 and 375, RSMo, include the 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. Chris Herbolsheimer is a licensed insurance producer first licensed by the Department on August 7, 2008. (License No. PR422593). Herbolsheimer's license is set to expire on August 7, 2010.

4. On or about February 5, 2009, the Consumer Affairs Division referred Investigation File Number 08A000646, concerning Herbolsheimer, to the Director seeking to discipline Herbolsheimer's insurance producer license.

5. The Consumer Affairs Division alleged that Herbolsheimer supplied materially incorrect, misleading, incomplete, or untrue information in a license application, made, or caused to be made, false statements, upon oath or affirmation, failed to respond to Department inquiries, and used fraudulent, coercive, or dishonest practices. The facts are as follows:

a. Pursuant to §§ 375.015 and 375.016, RSMo (Supp. 2008), to be licensed as a resident insurance producer, an individual must pass a written examination for the lines of authority for which the person has applied and submit proof that he or she passed the appropriate examination.

b. The Department contracts with Pearson Vue, a test administration company, to administer licensing examinations.

c. Herbolsheimer took and failed the Pearson Vue Property and Casualty Insurance Producer examination on or about the following dates: May 14, 2008; May 21, 2008; and May 29, 2008. On or about June 6, 2008,

Herbolsheimer passed the Pearson Vue Property and Casualty Insurance Producer examination.

d. Herbolsheimer took and failed the Pearson Vue Life Accident and Health Insurance Producer examination on or about the following dates: May 30, 2008; June 3, 2008; and June 10, 2008.

e. In August of 2008, Herbolsheimer electronically submitted to the Department a resident insurance producer license application for property and general casualty insurance lines. At that time, Herbolsheimer did not apply for a life and health insurance license.

f. After the Department electronically approved his property and casualty insurance license, Herbolsheimer caused to be submitted to the Department a May 29, 2008 Property and Casualty score report which falsely indicated that he had passed the Property and Casualty examination on May 29, 2008. Herbolsheimer had, in fact passed the Property and Casualty examination on June 6, 2008. The Department approved Herbolsheimer's license application based upon the electronic score record Pearson Vue submitted for the June 6, 2008 examination. Herbolsheimer had, in fact, failed the Property and Casualty examination on May 29, 2008.

g. Herbolsheimer indicated to Department staff that he intended to apply for a life and health license in the future and he caused to be submitted to the Department a June 6, 2008 Life Accident and Health score report which falsely indicated that Herbolsheimer had passed the Life Accident and Health examination on June 6, 2008.

h. On or about August 8, 2008, Diane Stanford, License Technician II for the Department, requested that Herbolsheimer submit the original examination score reports for the May 29, 2008 Property and Casualty examination and the June 6, 2008 Life Accident and Health examination due to a discrepancy between Herbolsheimer's records and those submitted by Pearson Vue. Ms. Stanford indicated that this information was necessary before the Department could mail a paper license. Herbolsheimer failed to respond to Ms. Stanford's request.

i. On or about September 4, 2008, Carrie Couch, Special Investigator for the Department, sent a subpoena duces tecum to Herbolsheimer via certified mail ordering him to appear at the Department office in Jefferson City, Missouri on September 24, 2008 and to bring the examination records and any documents submitted to his employer.

j. On or about September 8, 2008, Herbolsheimer signed the certified mail "green card" to acknowledge that he received the subpoena duces tecum.

k. Herbolsheimer failed to appear at the subpoena conference on September 24, 2008 and failed to contact the Department to reschedule. To date, Herbolsheimer has not contacted the Department or provided the requested documents.

6. On March 30, 2009, the Director filed a Complaint with the Administrative Hearing Commission seeking a finding that cause exists to discipline Herbolsheimer's insurance producer license pursuant to §§ 375.141.1(1), 375.141.1(2), 375.141.1(8) and 374.210.2, RSMo (Supp. 2008). See *Director of Department of Insurance, Financial*

Institutions and Professional Registration vs. Chris Herbolsheimer, AHC Case No. 09-0429 DI.

7. Herbolsheimer has the right to consult counsel at his own expense.

8. Herbolsheimer 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 settlement constitute grounds for disciplining Herbolsheimer's insurance producer license.

9. Herbolsheimer 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 releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from all liability and claims arising out of, pertaining to, or relating to this matter.

10. Upon execution of this Consent Order, the Director agrees to dismiss the Complaint filed in *Director of Department of Insurance, Financial Institutions and Professional Registration vs. Chris Herbolsheimer*, AHC Case No. 09-0429 DI.

Conclusions of Law

11. The allegations raised by the Consumer Affairs Division and the Director, if proven, are grounds to discipline Herbolsheimer's insurance producer license.

12. Herbolsheimer's submission of false examination scores to the Department constitutes intentionally providing materially incorrect, misleading, incomplete, or untrue

information in a license application and constitutes grounds to discipline Herbolsheimer's insurance producer license pursuant to § 375.141.1(1), RSMo (Supp. 2008).

13. By submitting false examination scores to the Department, Herbolsheimer made, or caused to be made, false statements, upon oath or affirmation, which is grounds to discipline Herbolsheimer's insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2008).

14. Herbolsheimer's refusal to produce documents or appear when subpoenaed by the Director constitutes grounds for discipline of Herbolsheimer's insurance producer license pursuant to § 374.210.2, RSMo (Supp. 2008).

15. Herbolsheimer's submission of false examination scores to the Department and refusal to produce documents or appear when subpoenaed by the Director constitute fraudulent, coercive, or dishonest practices which is grounds to discipline Herbolsheimer's insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2008).

16. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, RSMo (Supp. 2008) and 374.280, RSMo (2000).

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

18. 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 Chris Herbolsheimer's insurance producer license (License No. PR422593) 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 20th DAY OF APRIL, 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 Chris Herbolsheimer has the right to a hearing, but that Chris Herb olsheimer has waived the hearing and consented to the issuance of this Consent Order.

_____ 04/10/09
Chris Herbolsheimer — Date
Respondent

_____ _____
Counsel for Herbolsheimer (if any) — Date
Printed Name: _____
Missouri Bar No. _____
Address: _____
_____
Telephone: _____
Facsimile: _____

Tamara W Kopp _____ 4-14-09
Tamara W. Kopp — Date
Counsel for Consumer Affairs Division
Missouri Bar No. 59020
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