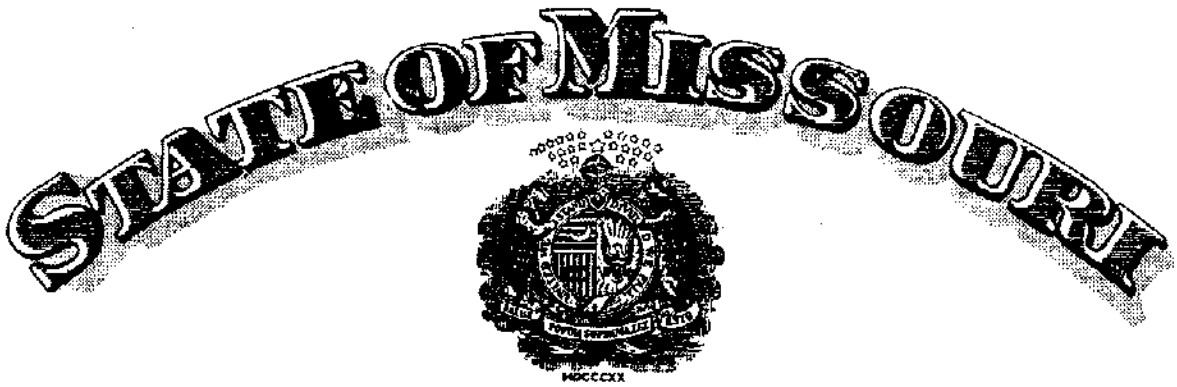


DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	**Case No. 10-0120097C**
RICHARD M. WEYHOFEN,	)	
	)	
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 legal counsel Tamara W. Kopp, and Richard M. Weyhofen, 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 ("Director") whose duties, pursuant to Chapters 374 and 375, RSMo, include the supervision, regulation and discipline of insurance producers and business entity producers.

2. The Consumer Affairs Division ("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 of Insurance, Financial Institutions and Professional Registration ("Department") issued Richard M. Weyhofen ("Respondent") an insurance producer license (No. 0331386) on June 23, 2004. The Department subsequently renewed Respondent's license; such license is set to expire on June 23, 2010.

4. Based on its investigation, the Division recommended that the Director take enforcement action against Respondent for failing to remit premium within 30 days, which is grounds to revoke his insurance producer license pursuant to § 375.141.1(4) and (8), RSMo (Supp. 2009) as defined by 20 CSR 700-1.140(1)(D). Further, the Division recommended that the Director take enforcement action against Respondent for failing to respond within 20 days to a Division inquiry in violation of 20 CSR 100-4.100 and grounds to revoke his insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2009). Finally, the Division recommended that the Director take enforcement action against Respondent for failing appear or obey a Subpoena Duces Tecum, which is grounds to revoke his insurance producer license pursuant to § 374.210.2, RSMo (Supp. 2009). The facts are as follows:

a. Respondent began working for Twin Lakes Insurance Agency ("Twin Lakes") in Lee's Summit, Missouri in October 2008 as an insurance producer on an independent contractor basis.

b. Respondent received a check dated October 23, 2008, from Jamie Albertson for $275 for a down payment on a homeowner's insurance policy through Progressive Insurance Company. Respondent received a second check from Jamie Albertson dated October 29, 2008, for $441 for the remainder on the

homeowner's insurance policy through Progressive Insurance Company. Respondent deposited the funds paid by Jamie Albertson into his personal checking account and never forwarded the funds to Progressive Insurance Company.

c. Respondent received a check dated November 19, 2008, in the amount of $532 from Lonnie Albertson for a down payment on a commercial liability insurance policy through Continental Western Insurance Company. Respondent received a second check from Lonnie Anderson dated November 19, 2008, in the amount of $160.24 for a down payment on personal auto and homeowner's insurance policies through Nationwide/Allied Insurance. Respondent deposited the funds paid by Lonnie Albertson in his personal checking account and never forwarded the funds to Continental Western Insurance Company or Nationwide/Allied Insurance.

d. On or about January 8, 2009, Twin Lakes staff discovered that Respondent had been collecting premium down payments from applicants on personal and commercial property casualty insurance policies, and depositing the funds into his personal checking account, instead of submitting the funds to Twin Lakes and the applicable insurance carriers so that coverage could be placed in force.

e. On January 9, 2009, Respondent admitted to Ronald Graves, Vice President of Sales for Twin Lakes, that Respondent had taken funds.

f. On January 9, 2009, Mr. Graves terminated Respondent's employment with Twin Lakes.

g. On or about April 1, 2009, Mr. Graves filed a complaint against Respondent with the Division.

h. A Division investigator sent a letter to Respondent on April 10, 2009, requiring a response to Mr. Graves' complaint by April 30, 2009. Respondent failed to respond to the April 10, 2009 letter by April 30, 2009.

i. On May 5, 2009, the Division investigator contacted Respondent by telephone. During the telephone conversation, Respondent admitted to the Division investigator that he did receive the April 10, 2009 letter, but wanted to speak with his attorney before responding.

j. On May 27, 2009, the Division investigator sent Respondent a second letter requiring a response to Mr. Graves' complaint by June 9, 2009. On June 10, 2009, the Division received a response from Respondent's attorney.

k. On August 18, 2009, the Division investigator sent Respondent a Subpoena Duces Tecum requiring that he appear at the Department office in Jefferson City, Missouri on September 10, 2009. Respondent signed for the subpoena on August 22, 2009. Upon Respondent's request, the Division investigator rescheduled the subpoena conference for September 24, 2009, and sent Respondent a confirmation e-mail. On September 24, 2009, Respondent sent the Division investigator an e-mail indicating he would not attend the subpoena conference on the advice of his attorney. Respondent did not appear at the September 24, 2009 subpoena conference.

l. The prosecuting attorney of Jackson County, Missouri charged that Respondent, in violation of § 570.030, RSMo (Supp. 2009), committed the Class C Felony of

Stealing Without Consent by Deceit or by Coercion, in that between October 23, 2008 and January 9, 2009, Respondent appropriated at least $500 which was the property of Twin Lakes Insurance Company without the consent of Twin Lakes Insurance Company and with the purpose to deprive them thereof. *State of Missouri v. Richard Michael Weyhofen*, Information, Case No. 0916-CR02322. Respondent entered a plea of guilty to the charge of charge of Stealing Without Consent by Deceit or by Coercion – Felony on or about January 11, 2010, and was found guilty and ordered to pay restitution in the amount of $1,466.44 and complete 40 hours of community service. The court suspended the imposition of Respondent's sentence.

5. On or about March 25, 2010, counsel for the Division sent a settlement offer to Respondent describing 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 Respondent that he had 60 days to review the relevant documents and consider the proposed settlement offer.

6. Respondent admits to the facts alleged by the Division and outlined in this Consent Order. Respondent agrees that these facts constitute grounds to discipline his insurance producer license pursuant to §§ 374.210.2 and 375.141.1(2), (4), and (8), RSMo (Supp. 2009).

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

8. Respondent has been advised that he may, either at the time the Consent Order is signed by all parties, or within 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 Missouri insurance producer license.

9. 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 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.

Conclusions of Law

10. The allegations raised by the Division are grounds to discipline Respondent's Missouri insurance producer license pursuant to §§ 374.210.2 and 375.141.1(2), (4), and (8), RSMo (Supp. 2009).

11. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to § 621.045, RSMo (Supp. 2009) and § 536.060, RSMo (2000).

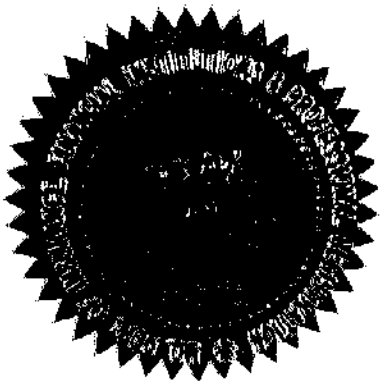
12. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

13. 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.

ORDER

IT IS ORDERED THAT Richard M. Weyhofen's Missouri insurance producer license (No. 0331386) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 1ST **DAY OF** JUNE, **2010.**



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

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Richard M. Weyhofen has the right to a hearing, but that Richard M. Weyhofen has waived the hearing and consented to the issuance of this Consent Order.

Richard M. Weyhofen
607 E. 117th Street
Kansas City, Missouri 64131
Telephone: (816) 377-6648
Respondent

5/18/2010
Date

Counsel for Richard M. Weyhofen
Name: _____
Missouri Bar No. _____
Address: _____
_____
Telephone: _____

Date

Tamara Kopp by MSE
Tamara W. Kopp
Counsel for Consumer Affairs Division
Missouri Bar No. 59020
Department of Insurance, Financial
Institutions & Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
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6/1/2010
Date