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MO. 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 RE:	)	
	)	
Marvin E. McDougal,	)	Case No. 120221213C
	)	
And,	)	
	)	
Automotive Risk Management & Insurance Services, Inc.,	)	
	)	
And,	)	
	)	
Automotive Risk Management & Insurance Service, LLC,	)	
	)	
Respondents.	)	

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration, takes up the above-referenced matter for consideration and disposition. The Consumer Affairs Division, through counsel, Tamara W. Kopp, and Respondents Marvin E. McDougal, Automotive Risk Management & Insurance Services, Inc., and Automotive Risk Management & Insurance Services, LLC, 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 ("Department") whose duties, pursuant to Chapters 374, 375, and 384 RSMo,[1] include supervision, regulation, and discipline of insurance producers and business entity producers, including surplus lines producers.

2. The Consumer Affairs Division ("Division") of the Department has the duty of conducting investigations into the unfair or unlawful acts of insurance producers and companies under the insurance laws of this state and is authorized to initiate actions before the Director to enforce the insurance laws of this state.

3. Respondent Marvin E. McDougal ("McDougal") is licensed as a Missouri non-resident insurance producer (License No. 0278191). McDougal's insurance producer license expires on August 11, 2013. McDougal also holds a surplus lines producer license (License No. 0278191), which expires on April 19, 2012.

4. Respondent Automotive Risk Management & Insurance Services, Inc. holds a non-resident business entity producer license (No. 8009290), which expires on August 11, 2013. Respondent McDougal is an owner/officer of Respondent Automotive Risk Management & Insurance Services, Inc. as well as Respondent Automotive Risk Management & Insurance Services, Inc.'s designated licensed individual insurance producer responsible for compliance with insurance laws and regulations in accordance with §375.015.2.

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[1] All statutory references are to the 2011 Supplement to the Revised Statutes of Missouri unless otherwise noted.

5. Respondent Automotive Risk Management & Insurance Services, LLC holds a non-resident business entity producer license (No. 8014092), which expires on March 14, 2014. Respondent McDougal is an owner/officer of Respondent Automotive Risk Management & Insurance Services, LLC.

6. McDougal owes the State of Missouri $24,546.95 in surplus lines premium taxes for Tax Year 2010, pursuant to §384.062. McDougal owes an additional $766.67 interest if he pays the overdue surplus lines premium taxes for Tax Year 2010 by April 30, 2012, pursuant to §32.065. McDougal also owes a 10% penalty on the overdue surplus lines taxes for Tax Year 2010 of $2,454.70, pursuant to §384.054. If McDougal pays the overdue surplus lines taxes for Tax Year 2010, interest, and penalty by April 30, 2012, McDougal would owe a total of $27,768.32 for Tax Year 2010.

7. McDougal owes the State of Missouri $40,035.30 in surplus lines taxes for Tax Year 2011, pursuant to §384.062. If McDougal pays the amount due for Tax Year 2011 by April 16, 2012, he will not owe additional interest or penalties. If McDougal pays the surplus lines taxes for Tax Year 2011 by April 30, 2012, McDougal will owe an additional $49.36 in interest, pursuant to §32.065, and $4,003.53 as a 10% penalty, pursuant to §384.054, for a total of $44,088.19.

8. On or about June 7, 2011, the Commonwealth of Virginia State Corporation Commission revoked Automotive Risk Management & Insurance Services, Inc.'s licenses to transact the business of insurance as an insurance agent and surplus lines producer because Automotive Risk Management & Insurance

Services, Inc. violated a Virginia insurance law by failing to timely file the Annual Gross Premium Tax Report for 2010. *State Corporation Commission v. Automotive Risk Management & Insurance Services, Inc.*, Case No. INS-2011-00095. Pursuant to §375.141.6, Automotive Risk Management & Insurance Services, Inc., or McDougal as its designated licensed individual insurance producer, should have reported the Virginia administrative action to the Director within 30 days of the final disposition of the matter. Neither Automotive Risk Management & Insurance Services, Inc., nor McDougal reported the Virginia administrative action to the Director in accordance with §375.141.6

9. On or about November 8, 2011, McDougal signed a Consent Order on behalf of Automotive Risk Management & Insurance Services, Inc. with the South Dakota Division of Insurance, Department of Labor and Regulation. *In the Matter of Automotive Risk Management & Services, Inc.*, Case No. 11577-250. Pursuant to §375.141.6, Automotive Risk Management & Insurance Services, Inc., or McDougal as its designated licensed individual insurance producer, should have reported the South Dakota administrative action to the Director within 30 days of the final disposition of the matter. Neither Automotive Risk Management & Insurance Services, Inc., nor McDougal reported the South Dakota administrative action to the Director in accordance with §375.141.6.

10. On or about December 2, 2012, McDougal signed a Stipulation as an individual licensee and as a representative of Automotive Risk Management & Insurance Services, Inc. with the New York State Department of Financial Services,

whereby McDougal and Automotive Risk Management & Insurance Services, Inc. admitted to violating a New York insurance law by failing to report Pennsylvania and Virginia administrative actions taken against Automotive Risk Management & Insurance Services, Inc. Pursuant to §375.141.6, Automotive Risk Management & Insurance Services, Inc., or McDougal as its designated licensed individual insurance producer, should have reported the New York administrative action to the Director within 30 days of the final disposition of the matter. McDougal was also individually obligated to report the New York administrative action because he was a named party. Neither Automotive Risk Management & Insurance Services, Inc., nor McDougal reported the New York administrative action to the Director in accordance with §375.141.6.

11. On February 10, 2012, McDougal submitted an electronic application to renew his non-resident surplus lines license, which is set to expire on April 19, 2012.

12. Respondents acknowledge and understand that the Director may refuse to renew or discipline McDougal's surplus lines license pursuant to:

a. §375.141.1(2) for violating a Missouri insurance law, namely §375.141.6, by failing to report the New York administrative action;

b. §375.141.1(2) for violating New York's insurance laws by failing to report administrative actions;

c. §375.141.1(2) for violating a Missouri insurance law, namely §384.059, by failing to pay the required tax on surplus lines premiums for Tax Year 2010;

d. §375.141.1(4) for improperly withholding, misappropriating, or converting any moneys received in the course of doing insurance business by failing to pay the required tax on surplus lines premiums for Tax Year 2010; and

e. §384.065(5) because McDougal failed to transmit required tax on surplus lines premiums for Tax Year 2010;

13. Respondents acknowledge and understand that the Director may discipline Automotive Risk Management & Insurance Services, Inc.'s business entity producer license pursuant to:

a. §375.141.1(2) for violating a Missouri insurance law, namely §375.141.6, by failing to report the Virginia, South Dakota, and New York administrative actions;

b. §375.141.1(9) for having an insurance producer license, or its equivalent, revoked by the Commonwealth of Virginia; and

c. §375.141.3 because Automotive Risk Management & Insurance Services, Inc. knew or should have known that McDougal, one of its owners/officers, violated §375.141.6 by failing to report the New York administrative action.

14. Respondents acknowledge and understand that the Director may discipline Automotive Risk Management & Insurance Services, LLC's business entity producer license pursuant to §375.141.3 because Automotive Risk Management & Insurance Services, LLC knew or should have known that McDougal, one of its owners/officers, violated §375.141.6 by failing to report the New York administrative action.

15. Respondents acknowledge and understand that they have the right to consult counsel at their own expense.

16. On March 20, 2012, counsel for the Division provided a written description of the specific conduct for which discipline was sought and a citation to the law and rules allegedly violated, together with copies of any documents upon which it based the allegations, and the Division's settlement offer, namely, this Consent Order, in accordance with §621.045.4(1).

17. Respondents have been advised that they 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 a determination that the facts agreed to by the parties to the Consent Order constitute grounds for discipline of Townsend's insurance producer license.

18. Except as provided in paragraph 17, above, Respondents stipulate and agree to waive any rights that they 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 Order and

forever release 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.

19. 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.

20. This Consent Order in no way limits the rights of the Missouri Department of Revenue or those of any other state or federal agency to take action against Respondents.

Conclusions of Law

21. The actions admitted by Respondents and outlined in this Consent Order are grounds to refuse or discipline McDougal's non-resident insurance producer and surplus lines producer licenses pursuant to §§375.141.1(2), (4) and 384.065(5).

22. The actions admitted by Respondents and outlined in this Consent Order are grounds to refuse or discipline Automotive Risk Management & Insurance Services, Inc.'s business entity producer license pursuant to §§375.141.1(2), (9), 375.141.3, and 375.141.6.

23. The actions admitted by Respondents and outlined in this Consent Order are grounds to refuse or discipline Automotive Risk Management & Insurance Services, LLC's business entity producer license pursuant to §375.141.3.

24. The Director may impose orders in the public interest under §374.046.

25. 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 the Department Insurance, Financial Institutions and Professional Registration will renew Marvin E. McDougal's surplus lines producer license subject to the conditions set forth herein.

IT IS ORDERED that Marvin E. McDougal will provide proof to the Director that he has paid all monies owed to the State of Missouri for Tax Year 2010 surplus lines premium taxes, including interest and penalties, prior to the execution of this Consent Order or renewal of McDougal's surplus lines producer license.

IT IS ORDERED that Marvin E. McDougal will provide proof to the Director that he has timely paid all monies owed to the State of Missouri for Tax Year 2011 surplus lines premium taxes, prior to the execution of this Consent Order or renewal of McDougal's surplus lines producer license.

IT IS ORDERED that indefinitely, from the date this Consent Order is executed, Marvin E. McDougal shall make quarterly payments to the State of Missouri, within 30 days of the end of each calendar quarter, for all surplus lines premium taxes, and provide proof of such payment upon the Director's request.

IT IS ORDERED that Respondents, in lieu of the institution by the Department of Insurance, Financial Institutions and Professional Registration of any action to refuse, suspend, or revoke Respondents' respective licenses or to impose any other penalties provided for by §374.046, for the above-described

violations, after being afforded the opportunity to consult legal counsel, Respondents shall forfeit the sum of $2,500 in the form of a cashier's check or money order, to be paid into the Missouri State School Fund pursuant to §§374.046 and 374.280. The voluntary forfeiture shall be delivered to the Department of Insurance, Financial Institutions and Professional Registration, Attention Tamara W. Kopp, Senior Enforcement Counsel, P.O. Box 690, Jefferson City, Missouri 65102. All correspondence and/ or payments shall reference the above cited case number. Respondents shall submit the voluntary forfeiture when they sign and return this Consent Order.

IT IS ORDERED that Respondents shall report to the Department of Insurance, Financial Institutions and Professional Registration any violation of or failure to comply with the laws set forth in Chapters 374, 375, and 384 RSMo, and the regulations promulgated thereunder, within five business days of such violation or failure to comply.

IT IS ORDERED that within five business days of receipt of notification by the impacted Respondent, the impacted Respondent shall report to the Department of Insurance, Financial Institutions and Professional Registration any administrative action taken against the impacted Respondent by any state or federal regulatory body concerning any professional license.

IT IS ORDERED that if Respondents violate or otherwise fail to comply with the terms and conditions of this Consent Order, the Director may pursue additional

legal remedies, as necessary and without limitation, as authorized by Chapters 374, 375, and 384 RSMo.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 19TH DAY OF APRIL, 2012.

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

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondents may have a right to a hearing, but that Respondents waived the hearing and consented to the issuance of this Consent Order.

Marvin E. McDougal
License No. 0278191
2506 Michelangelo Drive
Stockton, California 65207
Telephone: (209) 473-8937
Facsimile: (209) 473-8393

Date

Automotive Risk Management &
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1919 Grand Canal Boulevard, Suite C7
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Telephone: (209) 473-8938

Date

Automotive Risk Management &
Insurance Services, LLC
License No. 8014092
750 Bagnell Dam Boulevard
Lake Ozark, Missouri 65049
Telephone: (573) 365-9097

Date

Tamara W. Kopp
Counsel for Consumer Affairs Division
Missouri Bar No. 59020
Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-2619
Facsimile: (573) 526-5492

4-19-12
Date

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondents may have a right to a hearing, but that Respondents waived the hearing and consented to the issuance of this Consent Order.

4/3/12

Date

Marvin E. McDougal
License No. 0278191
2506 Michelangelo Drive
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Telephone: (209) 473-8937
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4/3/12

Date

Automotive Risk Management &
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4/3/12

Date

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4-19-12

Date

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