DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	**Case No. 150526309C**
Brett Wesley Loethen,	)	
	)	
Applicant.	)	

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 Cheryl C. Nield, and Applicant Brett Wesley Loethen 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" of the "Department") whose duties, pursuant to Chapters 374, 375, and 381, RSMo,[1] include the supervision, regulation, and discipline of insurance producers in the State of Missouri.

2. The Consumer Affairs Division ("Division") has the duty of conducting investigations into the qualifications of insurance producer license applicants under the insurance

[1] All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

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

3. Brett Wesley Loethen ("Loethen") is a Missouri resident with a residential, business, and mailing address of 2722 S. Glendale, Springfield, Missouri 65804. Loethen was previously licensed as a title insurance producer in Missouri, beginning on February 3, 2006 (License Number 0364612). That license expired on February 3, 2008.

4. In February 2014, Loethen applied to the Department for a resident individual title insurance producer license. On July 18, 2014, the Director issued his "Order Refusing to Issue an Insurance Producer License" ("Refusal Order"). *In re: Brett Wesley Loethen*, DIFP Case No. 140429441C.

5. Christopher Michael Rodriguez ("Rodriguez") is licensed as a Missouri title insurance producer (License Number 0308229). Rodriguez's mailing address is 2111 E. 187th Street, Belton, Missouri 64012. Rodriguez's business address is Alpha Title, LLC, 306 S.E. 3rd Street, Lee's Summit, Missouri 64063-2724. Rodriguez acknowledges and agrees that he is bound by the terms of this Consent Order as Loethen's supervising producer.

6. On or about March 18, 2015, the Department received an electronic resident title insurance producer license application ("2015 Application") from Loethen.

7. In his 2015 Application, Loethen disclosed, in response to Background Question Number 2, that he had been involved in an administrative proceeding. Loethen attached documentation to his 2015 Application showing that he appealed the Director's "Refusal Order" to the Administrative Hearing Commission, but later voluntarily dismissed the case.

8. In his Refusal Order, the Director outlined various bases supporting his cause to refuse to issue Loethen a title insurance producer license.

9. In particular, and as set forth in the Refusal Order, the Director had cause to refuse to issue a title insurance producer license to Loethen under § 375.141.1(2) because Loethen violated various insurance laws, to wit: § 381.115.1 and .2(2), § 381.022.2(1) and (2), and § 381.022.3(3).

10. More particularly, Loethen closed a real property transaction involving refinancing for an individual named Brenda Coffey ("Coffey") even though he was not licensed to do so. Loethen also handled escrow funds belonging to the Treece Relocation Assistance Trust ("Trust") without a license. Loethen's actions violated § 381.115.1 and .2(2).

11. When Loethen handled escrowed funds, he failed to segregate and disburse those funds in accordance with the terms of the written instructions or agreements under which the funds were accepted. As to Coffey, Loethen issued dishonored checks to some of Coffey's creditors that were supposed to be paid in connection with the refinancing of her home. As to the Trust, Loethen failed to pay individuals who were supposed to be reimbursed with the Trust's escrowed money and Loethen was late in paying that escrowed money back to the Trust. Loethen's actions violated § 381.022.2(1) and (2).

12. Loethen also improperly used escrowed funds for purposes other than to fulfill the terms of the individual written instructions or agreements after the necessary conditions of the written escrow instructions or agreements had been met. As to Coffey, Loethen sent dishonored checks to Coffey's creditors; Coffey's escrowed funds must therefore have been put to uses other than to pay Coffey's creditors in her refinancing. As to the Trust, Loethen had to reimburse the Trust after Loethen used the Trust's escrowed money for incorrect transactions and the Trust had to pay additional, non-escrowed money to various property sellers. Loethen's actions violated § 381.022.3(3).

13. As also set forth in the Refusal Order, the Director had cause to refuse to issue a title insurance producer license to Loethen under § 375.141.1(4), because Loethen withheld, misappropriated or converted money received in the course of doing insurance business. As to Coffey, Loethen sent dishonored checks to Coffey's creditors, evidencing that Loethen must have used the money that Coffey placed in escrow for other, unauthorized purposes. As to the Trust, Loethen paid the wrong people with the Trust's escrowed money, so the Trust had to pay the correct individuals with non-escrowed funds. Loethen reimbursed the Trust for the Trust's additional expenditures in this regard, but Loethen's payments were both late and piecemeal. Loethen's actions demonstrate that he used the Trust's escrowed money for non-Trust related purposes.

14. As also set forth in the Refusal Order, the Director had cause to refuse to issue a title insurance producer license to Loethen under § 375.141.1(8), because Loethen used fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business. As to both Coffey and the Trust, Loethen failed to properly segregate escrowed funds belonging to different people and entities, and he failed to disburse that escrowed money pursuant to instructions and agreements, often resulting in a balance in the escrow account that was insufficient to cover required payments.

15. As also set forth in the Refusal Order, the Director had cause to refuse to issue a title insurance producer license to Loethen under § 375.141.1(12), because Loethen knowingly acted as an insurance producer when not licensed to do so when he closed Coffey's real estate transaction and disbursed escrow money to pay back the Trust.

16. Section 375.141.1 provides, in relevant part:

> The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

* * *

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

* * *

(12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed[.]

17. Section 381.022, an insurance law, provides, in part:

* * *

2. A title insurer, title agency, or title agent not affiliated with a title agency may operate as an escrow, security, settlement, or closing agent, provided that all funds deposited with the title insurer, title agency, or title agent not affiliated with a title agency, pursuant to written instructions in connection with any escrow, settlement, closing, or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository institution no later than the close of the second business day after receipt, in accordance with the following requirements:

(1) The funds regulated under this section shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit, or closing in the records of the title insurer, title agency, or title agent not affiliated with a title agency, in a manner that permits the funds to be identified on an individual basis and in

accordance with the terms of the individual written instructions or agreements under which the funds were accepted; and

(2) The funds shall be applied only in accordance with the terms of the individual written instructions or agreements under which the funds were accepted.

3. It is unlawful for any person to:

* * *

(3) Use such escrow funds for any purpose other than to fulfill the terms of the individual written escrow instructions after the necessary conditions of the written escrow instructions have been met[.]

18. Section 381.115, an insurance law, provides, in part:

1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent.

2. It is unlawful for any person to transact business as:

* * *

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015 or is exempt from licensure under subsection 3 of this section.

19. Loethen acknowledges and understands that under § 375.141.1(2), the Director may refuse to issue a resident title insurance producer license to him because Loethen violated § 381.115.1 and .2(2), § 381.022.2(1) and (2), and § 381.022.3(3), insurance laws, by handling a real estate closing and escrow funds without a license, and because of improper handling of escrowed funds.

20. Loethen acknowledges and understands that under § 375.141.1(4), the Director may refuse to issue a resident title insurance producer license to him because Loethen withheld, misappropriated or converted money received in the course of doing insurance business because Loethen mishandled escrowed funds.

21. Loethen acknowledges and understands that under § 375.141.1(8), the Director may refuse to issue a resident title insurance producer license to him because Loethen used fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere by mishandling escrowed funds.

22. Loethen acknowledges and understands that under § 375.141.1(12), the Director may refuse to issue a resident title insurance producer license to him because Loethen knowingly acted as an insurance producer though not licensed to do so when he closed a real estate transaction and disbursed escrow money.

23. Loethen acknowledges and understands that he has the right to consult counsel at his own expense.

24. Loethen stipulates and agrees to waive any waivable 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 Division from all liability and claims arising out of, pertaining to, or relating to this matter.

25. Loethen acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Loethen further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications, if required, and that it is his responsibility to comply with the reporting requirements of each state in which he is licensed.

26. 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.

27. The actions admitted by Loethen are cause to refuse to issue him a resident title insurance producer license pursuant to § 375.141.1(2), (4), (8), and (12).

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

29. 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 will issue a resident title insurance producer license to Loethen, subject to the following conditions:

1. Rodriguez shall supervise and assure Loethen's compliance with the laws set forth in Chapters 374, 375, and 381, and the terms of this Consent Order. Rodriguez shall report to the Division within five (5) business days of knowledge of Loethen's violation of the laws set forth in Chapters 374, 375, or 381, or the terms of this Consent Order. If Rodriguez is no longer willing or able to supervise Loethen or assure Loethen's compliance with the laws set forth in Chapters 374, 375, and 381, and the terms of this Consent Order, Rodriguez and Loethen shall notify the Division and the parties may seek an amendment to this Consent Order, including, but not limited to, a substitute supervising producer. If Rodriguez fails to maintain a Missouri title insurance producer license in good standing, Rodriguez is no longer qualified as a supervising producer. Loethen is not authorized to engage in the business of insurance in Missouri if he does not have a qualified supervising producer approved by the Director.

2. Loethen shall not participate in the closing of a real property transaction, or in processing or settlement services.

3. Loethen shall not have signatory authority on any fiduciary trust account, as those accounts are described in § 381.022.2, or any other account where customer or consumer funds are held in escrow. Further, Loethen shall not deposit or disburse customer or consumer funds into or from a fiduciary trust account or other account where customer or consumer funds are held in escrow.

4. Loethen shall report to the Division within five (5) business days of knowledge that he is changing employers or job functions.

5. Loethen shall report to the Division within five (5) business days of a change of his residential, business, or mailing address, or residential or business telephone number.

6. Loethen shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department within five (5) business days of receipt.

7. If a consumer complaint is communicated directly to Loethen, Loethen shall send the Department a copy of the complaint. If Loethen is responsible for responding to the complaint, Loethen shall also send a copy of Loethen's response to the consumer to the Department within five (5) business days of Loethen's receipt of the consumer complaint.

8. If a consumer complaint regarding Loethen is communicated directly to Rodriguez, Rodriguez shall send the Department a copy of the complaint. Rodriguez shall also send a copy of the response to the consumer complaint to the Department within five (5) business days of Rodriguez's receipt of the consumer complaint.

9. Loethen shall report to the Department any violation of or failure to comply with the laws set forth in Chapters 374, 375, and 381, and all regulations promulgated thereunder, on his part, within five (5) business days of such violation or failure to comply.

10. Loethen shall report to the Division any and all of the following incidents involving Loethen: arrest, guilty plea, *Alford* Plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Loethen shall report all such incidents to the Division within five (5) business days of their occurrence.

11. Loethen shall report to the Division any administrative action taken against Loethen by any other governmental agency in Missouri or any other jurisdiction within five (5) business days of the final disposition of such administrative action.

12. The conditions listed in the immediately preceding eleven (11) paragraphs of this Order and this Consent Order will expire five (5) years from the date this Consent Order is fully and finally executed and issued or will terminate upon the refusal, revocation, or other discipline by the Director of Loethen's title insurance producer license.

IT IS FURTHER ORDERED, as follows:

13. Loethen shall complete twenty (20) hours of continuing education related to "Ethics" and "Settlement Services," to be performed within one (1) year of title insurance producer license issuance. This continuing education requirement shall be in addition to the eight (8) hours of continuing education required pursuant to § 381.118. Within thirty (30) days before undertaking such additional continuing education related to "Ethics" and "Settlement Services," Loethen must provide course descriptions for the courses that he would propose to take to fulfill this requirement to Marjorie Thompson, Special Investigator, Missouri Department of Insurance, Financial Institutions and Professional Registration, for approval of said coursework to ensure that said coursework is sufficiently related to "Ethics" and/or "Settlement Services." If Marjorie Thompson declines to approve such coursework, Loethen must select another course or courses and provide those descriptions to Marjorie Thompson for approval as

described above. Finally, Loethen must provide his certificate(s) or other proof of completion relative to the twenty (20) additional hours of continuing education described above to Marjorie Thompson, Special Investigator, Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri, 65102, also within one (1) year of title insurance producer license issuance.

14. If Loethen maintains his resident title insurance producer license beyond the initial term and complies with the terms of this Consent Order, Loethen may apply to renew his title insurance producer license and the Director shall consider the renewal application in accordance with Chapters 374, 375, and 381, without regard to the above described grounds to refuse to issue a title insurance producer license to Loethen under § 375.141.1(2), (4), (8), and (12).

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies, as necessary and without limitation, as authorized by Chapters 374, 375, and 381, including remedies for violations of, or failure to comply with, the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 16th DAY OF FEBRUARY, 2016.

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 Loethen has the right to a hearing, but that Loethen has waived the hearing and consented to the issuance of this Consent Order.

Brett Wesley Loethen, Applicant
2722 S. Glendale,
Springfield, Missouri 65804
(417) 889-4925

1-26-16
Date

Counsel for Applicant
Name: _____
Bar No. _____
Address: _____
_____
Telephone: _____

Date

Christopher Michael Rodriguez,
Supervising Producer
2111 E. 187th Street
Belton, Missouri 64012
(816) 331-6686

Date

Counsel for Supervising Producer
Name: _____
Bar No. _____
Address: _____
_____
Telephone: _____

Date

Cheryl C. Nield
Missouri Bar No. 41569
Counsel for Consumer Affairs Division
Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530

2/2/16
Date

CONSENT AND WAIVER OF HEARING

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

Brett Wesley Loethen, Applicant 2722 S. Glendale, Springfield, Missouri 65804 (417) 889-4925	Date
Counsel for Applicant Name: _____ Bar No. _____ Address: _____ _____ Telephone: _____	Date
Christopher Michael Rodriguez, Supervising Producer 2111 E. 187th Street Belton, Missouri 64012 (816) 331-6686	1/27/16 Date
Counsel for Supervising Producer Name: _____ Bar No. _____ Address: _____ _____ Telephone: _____	Date
Cheryl C. Nield Missouri Bar No. 41569 Counsel for Consumer Affairs Division Department of Insurance, Financial Institutions and Professional Registration 301 West High Street, Room 530	2/9/16 Date

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