

**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In the Matter of:)

MICHAEL JEREMY GARNER,)

Case No. 10-0924614C

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 Kristen E. Paulsmeyer, and Michael Jeremy Garner, 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,¹ 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

¹ All statutory references are to the 2010 Supplement to the Revised Statutes of Missouri unless otherwise noted.

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

3. On or about August 8, 1995, Michael Jeremy Garner ("Garner") sold more than 5 grams of marijuana, a controlled substance, to Sgt. E. L. Porter knowing or consciously disregarding a substantial and unjustifiable risk that it was a controlled substance in violation of § 195.211 (1994).

4. On or about December 23, 1996 in a Complaint, and on or about May 13, 1997 by Information, Garner was charged with the Class B Felony of Sale of a Controlled Substance in Laclede County, Missouri.

5. On or about October 27, 1997, Garner pleaded guilty to a Class B Felony of Sale of a Controlled Substance. *State of Missouri v. Michael J. Garner*, Laclede County Circuit Court, Case No. CR496-1408FX.

6. On or about October 27, 1997, the Court sentenced Garner to the custody of the Missouri Department of Corrections for a period of 15 years. Garner received a suspended execution of sentence, and the Court placed him on probation for a period of five years.

7. On or about November 12, 2002, Garner was discharged from probation.

8. On or about August 25, 2010, Garner submitted a Uniform Application for Individual Insurance Producer License ("Application") to the Department.

9. In the section of the Application headed "Background Information," Question # 1 asks: "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?" Garner answered "Yes" to Background Question # 1.

10. Following this question, the Application asks: "If you have a felony conviction, have you applied for a waiver as required by 18 USC 1033?" Garner answered "Yes".

11. With his Application, Garner submitted the Short Form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. § 1033 and 1034 ("1033 Application").

12. Question 1 of Section II of the 1033 Application, headed Criminal History, instructs: "List any felony(s) for which you have been arrested, charged, indicted, or convicted." In response, Garner disclosed the guilty plea to the Class B Felony of Sale of a Controlled Substance in Case No. CR496-1408FX.

13. Garner also disclosed in the 1033 Application his five years supervised probation and indicated he paid \$400.00 in restitution, and \$68.00 in court costs associated with the above listed Class B Felony.

14. Garner acknowledges and understands that under § 375.141.1(6) the Director may refuse to issue his insurance producer license for Garner having been convicted of a felony or crime involving moral turpitude.

15. Garner intends to sell life and health insurance while employed by Garner and Associates Insurance (License No. 8021274), located at 1403 North Jefferson Avenue, Lebanon, Missouri, 65536.

16. Robert "Bob" Garner (License No. 0178649), designated responsible producer for Garner and Associates Insurance, agrees to supervise Michael Jeremy Garner and ensure his compliance with Missouri's insurance laws and regulations.

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

18. This Consent Order is entered pursuant to § 374.046. As such, any interested person aggrieved by this Order may request a hearing before the Director or review of this Order in a circuit court under § 374.055. Although under the Department's interpretation of the relevant statutes, review of this Order by the Administrative Hearing Commission is not available, Garner nevertheless may have the right, under § 621.045, to submit this Consent Order to the Administrative Hearing Commission for a determination that the facts agreed to in this consent order constitute grounds to refuse Garner's license.

19. Except as provided in paragraph 18, above, Garner 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 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.

20. 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.

Conclusions of Law

21. The actions admitted by Garner are grounds to refuse his Missouri insurance producer license application pursuant to § 375.141.1(6).

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

23. 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 an insurance producer license to Michael Jeremy Garner subject to the conditions set forth herein.

IT IS FURTHER ORDERED THAT to the extent it may be required, this Consent Order constitutes the Director's consent to engage in the business of insurance in Missouri pursuant to 18 U.S.C. § 1033(c).

IT IS FURTHER ORDERED THAT Michael Jeremy Garner shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department of Insurance, Financial Institutions and Professional Registration or the consumer within three business days of receipt. Michael Jeremy Garner shall immediately report in writing all inquiries and consumer complaints, both written and oral, to the designated responsible producer of Garner and Associates, and such designated producer shall also respond to the Department or consumer regarding the complaints or inquiries within three business days of receipt. If the complaint was not communicated to Garner by the Department, the designated responsible producer shall send a copy of the complaint and the designated responsible producer's response to the consumer within three business days of receipt.

IT IS FURTHER ORDERED THAT Michael Jeremy Garner shall report to the Department of Insurance, Financial Institutions and Professional Registration any administrative action taken against Garner in another jurisdiction or by another governmental agency in this state within three business days after he receives notification of the initiation of such administrative action.

IT IS FURTHER ORDERED THAT Michael Jeremy Garner shall report to the Department of Insurance, Financial Institutions and Professional Registration any arrest, citation,

guilty plea, nolo contendere plea, finding of guilt or conviction concerning a felony or crime of moral turpitude, including drug related charges, within three business days of such arrest, citation, plea or finding.

IT IS FURTHER ORDERED THAT Michael Jeremy Garner 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 and 375, RSMo within three business days of such violation or failure to comply.

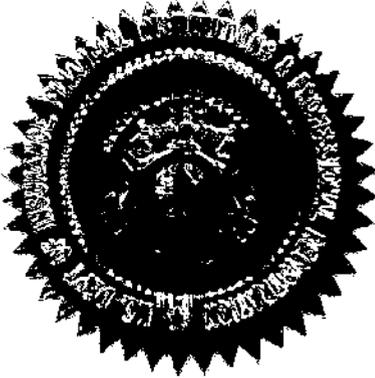
IT IS FURTHER ORDERED THAT Michael Jeremy Garner shall, at least 30 days prior to any such change, report to the Department of Insurance, Financial Institutions and Professional Registration his intent to change his agency affiliation from Garner and Associates Insurance to any other business entity producer licensed to market insurance products in Missouri. Garner shall not change his agency affiliation from Garner and Associates Insurance to any other business entity producer licensed to market insurance products in Missouri without the Director's express written permission.

IT IS FURTHER ORDERED THAT Robert "Bob" Garner, as the designated responsible producer supervising Michael Jeremy Garner's compliance with the Missouri insurance laws and the terms of this Consent Order, has agreed to notify the Department within three business days of any change to his status as the designated responsible producer.

IT IS FURTHER ORDERED THAT if Michael Jeremy Garner maintains his insurance producer license beyond the initial term and complies with the terms of this Consent Order, Garner may apply to renew his license and the Director and Department shall consider his renewal application in accordance with Chapters 374 and 375, RSMo without regard to Garner's prior felony in *State of Missouri v. Michael J. Garner*, Case No. CR496-1408FX.

IT IS FURTHER ORDERED THAT the Director may pursue additional legal remedies,
as necessary and without limitation, as authorized by Chapters 374 and 375 RSMo.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 14TH DAY OF
MARCH, 2011.



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

Michael J. Garner
Michael Jeremy Garner
190 Booten Avenue
Lebanon, Missouri 65536
Respondent

2-23-11
Date

Counsel for Respondent
Name: _____
Missouri Bar No. _____
Address: _____

Telephone: _____

Date

Robert "Bob" Garner
Robert "Bob" Garner
Designated Responsible Producer
Garner and Associates Insurance
1403 North Jefferson Avenue
Lebanon, Missouri 65536
Telephone: (417) 532-9491

2-23-11
Date

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2/28/11
Date