DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re:	)	
	)	Case No. 110718586C
Joshua Gould,	)	
	)	
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 Joshua Gould 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 and 375 RSMo,[1] 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

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

state and is authorized by the Director to investigate and to recommend enforcement action for violations of the insurance laws of this state. *See* § 374.190 RSMo (Supp. 2000).

3. The Department issued Joshua Gould ("Respondent" or "Gould") an insurance producer license on June 27, 2002 (License No. 0202373). Gould's insurance producer license is set to expire on June 27, 2012.

4. On December 21, 2010, Allianz Life Insurance Company of North America ("Allianz") contacted the Department to report potential insurance violations by Gould. The Allianz representative reported, among other things, the following:

a. Allianz had researched a claim and discovered inappropriate activity regarding a client account managed by Gould.

b. On November 1, 2010, an investigation and onsite audit was initiated for Gould's branch office, during which Gould admitted to inappropriate activity.

c. Gould forged withdrawal documents to make several unauthorized withdrawals from variable annuities and transferred the funds from those withdrawals to a personal investment account held by Gould.

d. Allianz terminated Joshua Gould for cause.

5. Annuities are insurance products. *See* §§ 375.018 and 375.786 and §§ 375.932(5) and 375.1002(4) RSMo (2000).

6. Allianz provided the Department with a copy of a written voluntary statement signed by Gould on November 1, 2010, during the internal investigation. In Gould's voluntary statement, Gould stated, among other things, the following:

a. that he has been associated with the Spetner and Associates Agency ("Spetner"), an insurance agency, since 2004;

b. that he "did in fact forge documents to make unauthorized withdrawals and distributions."

c. that "[t]he purpose of these transactions was to misappropriate client funds."

7. On March 3, 2011, Gould was indicted in the United States District Court for the Eastern District of Missouri with one count wire fraud and one count mail fraud. *United States of America v. Joshua Gould and David Rubin*, Case No. 4:11CR00066RWS, Indictment filed March 3, 2011.

8. On April 29, 2011, Gould pleaded guilty to knowingly violating both the mail fraud statute, 18 U.S.C. § 1341, and the wire fraud statute, 18 U.S.C. § 1343. *United States of America v. Joshua Gould*, Case No. 4:11CR00066RWS, Guilty Plea Agreement filed March 3, 2011.

9. On July 22, 2011, Gould was convicted and sentenced to 97 months incarceration, 3 years supervised release, and a criminal monetary penalty of $4,323,292.23. *United States of America v. Joshua Gould*, Case No. 4:11CR00066RWS, Judgment in a Criminal Case filed July 22, 2011.

10. Title 18 U.S.C. §§ 1341 and 1343 are Class C felonies pursuant to 18 U.S.C. § 3559.

11. Gould, along with others, devised, intended to devise, and knowingly participated in a scheme to defraud and obtain money from an investor, in an approximate amount of $1,500,000, by means of materially false and fraudulent pretenses, representations, and promises. *See* Guilty Plea Agreement filed March 3, 2011.

12. Gould devised, intended to devise, and knowingly participated in a scheme to defraud and obtain money from variable annuities belonging to his brokerage clients in an approximate total amount of $3,500,000, by means of materially false and fraudulent pretenses, representations, and promises. *Id.*

13. Gould effected the unauthorized trades, redemptions, and liquidations of variable annuities through the use of pre-signed maintenance forms held in his possession, through the use of trade and redemption forms to which he forged his clients' signatures as "authorization", and by having his clients sign authorizations through falsely representing to his clients that Pacific Mutual Alliance, LLC and Apex Alliance, LLC were legitimate investment securities when, in fact, they were simply shell companies established by Gould. *Id.*

14. Gould, in a *Ponzi* type scheme, used the funds obtained from his brokerage clients' variable annuities to pay off other clients' trade requests, where their securities had previously been liquidated by Gould without their knowledge. *Id.*

15. Gould willfully and knowingly commingled and converted funds from variable annuities into his personal use, including, but not limited to, automobile payments, mortgage payments, expenses related to the renovation of his personal residence, jewelry, substantial personal credit card bills, adult entertainment, and start up costs and operational costs for several business ventures Gould held interests in. *Id.*

16. On April 15, 2011, the Missouri Secretary of State ("SOS") issued a Consent Order, whereby Gould agreed to be "permanently BARRED from applying as a securities agent or an investment adviser representative in the State of Missouri or from associating in any capacity with a broker-dealer or investment adviser[.]" *In the Matter of Joshua Gould, CRD#4617397*, Case No. AP-11-17, Consent Order dated April 15, 2011.

17. Gould violated § 375.141.6 because he failed to report the SOS Consent Order, which is an administrative action taken by another agency in this state, within thirty days of the final disposition of the matter. Gould's insurance producer license is subject to discipline pursuant to § 375.141.1(2) because Gould violated § 375.141.6.

18. Gould violated § 375.141.7 because he failed to report his criminal prosecution for a felony or crime involving moral turpitude to the Director within thirty days of the initial pretrial hearing date. Gould's insurance producer license is subject to discipline pursuant to § 375.141.1(2) because Gould violated § 375.141.7.

19. Gould's conduct which led to his felony mail fraud and wire fraud convictions is grounds to discipline his insurance producer license pursuant to § 375.141.1(4) for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business.

20. Gould's felony mail fraud and wire fraud convictions are grounds to discipline his insurance producer license pursuant to § 375.141.1(6) because Gould was convicted of felonies that are also crimes of moral turpitude. *See Neibling v. Terry*, 177 S.W.2d 502, 503 (Mo. banc 1944) ("We hold the offense of using the mails to defraud involves moral turpitude."); *State Bd. of Accountancy v. Brodzin*, 09-0312 AC (Mo. Admin. Hrg. Comm'n April 1, 2010) (finding "that the crime of wire fraud, with the essential elements of fraud and dishonesty, is a Category 1 crime and thus involves moral turpitude.").

21. Gould's conduct which led to his felony mail fraud and wire fraud convictions is grounds to discipline his insurance producer license pursuant to § 375.141.1(7) for having admitted or been found to have committed insurance fraud.

22. Gould's conduct which led to his felony mail fraud and wire fraud convictions is grounds to discipline his insurance producer license pursuant to § 375.141.1(8) for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

23. Gould's conduct which led to his felony mail fraud and wire fraud convictions is grounds to discipline his insurance producer license pursuant to § 375.141.1(10) for signing the name of another to a document related to an insurance transaction without authorization.

24. Gould admits the facts alleged by the Consumer Affairs Division as outlined in this Consent Order.

25. Gould admits that these facts constitute grounds to discipline his insurance producer license pursuant to §§ 375.141.1(2), (4), (6), (7), (8), and (10).

26. Gould has the right to consult counsel at his own expense.

27. Gould has been advised that he may, either at the time the Consent Order is signed by all parties, or within fifteen 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 Gould's Missouri insurance producer license.

28. Except as provided in paragraph 27 above, Gould 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.

29. 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

30. The facts admitted by Gould are grounds to discipline Gould's Missouri insurance producer license pursuant to §§ 375.141.1(2), (4), (6), (7), (8) and (10).

31. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046 and 621.045 and § 536.060 RSMo (2000).

32. 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 Joshua Gould's Missouri insurance producer license (No. 0202373) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 22ND DAY OF August, 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 Respondent has the right to a hearing, but that Respondent has waived the hearing and consented to the issuance of this Consent Order.

8/17/11

Joshua Gould
Respondent
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Date

8/17/11

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