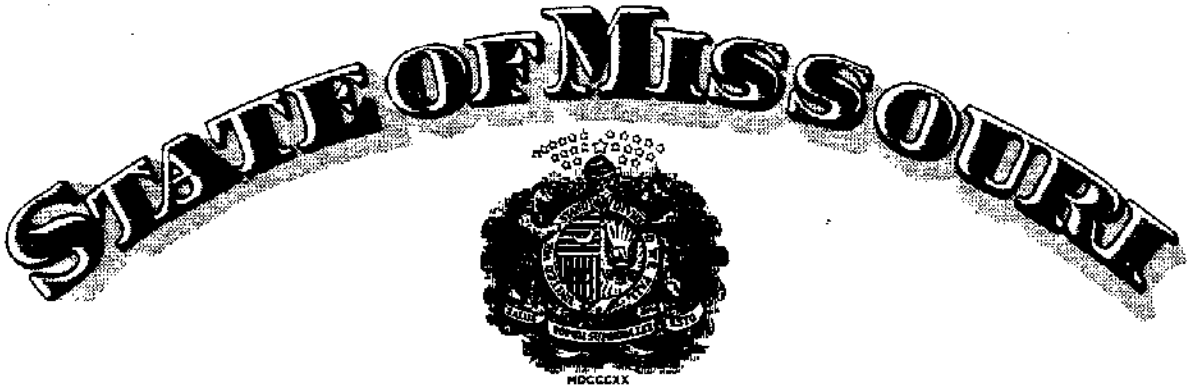


# DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

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| **In the Matter of:** | ) | |
| | ) | **Case No. 090608561C** |
| **JASON M. GUILLEN,** | ) | |
| | ) | |
| **Respondent.** | ) | |

## 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, Mary S. Erickson, and Respondent Jason M. Guillen have reached a settlement in this matter and the parties have consented to the issuance of this Consent Order.

### Findings of Fact

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 and 375 RSMo, include supervision, regulation, and discipline of insurance producers.

2. The Consumer Affairs 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 has been authorized by the Director to initiate this action before the Director to enforce the insurance laws of this state.

3. The Department originally issued an insurance producer license to Jason M. Guillen ("Respondent" or "Respondent Guillen") on February 23, 2004, license number 324801, which was subsequently renewed until it expired on February 23, 2008.

4. On or about June 8, 2009, the Consumer Affairs Division referred Investigation File No. 06A000641 concerning Respondent to the Director seeking to discipline Respondent's insurance producer license.

5. The Consumer Affairs Division alleged the following regarding Respondent Guillen:

a. Alice Baker and Marion Gross are sisters who live together in Nixa, Missouri. Respondent befriended the sisters through political and church work. Marion Gross has power of attorney over Alice Baker.

b. On or about June 1, 2005, Respondent Guillen sold an insurance policy (Medicare supplement) to Alice Baker through Bankers Life and Casualty Company.

c. On August 2, 2006, Ms. Gross wrote a check for $50,000.00 payable to Jason Guillen and Marion Gross from a joint bank account of Alice Baker and Marion Gross. Respondent Guillen and Ms. Gross countersigned the check, the check was cashed at Commerce Bank in Springfield, Missouri, and Respondent received the funds.

d. On August 8, 2006, Mss. Baker and Gross entered into a contract with Respondent to loan him $53,900.20.

e. Respondent Guillen, Mss. Baker and Gross entered into the contract after Respondent had already received $50,000.00 from Mss. Baker and Gross because the Missouri Department of Health and Senior Services, Division of Aging, began an investigation into the transaction.

f. Alice Baker and Marion Gross were current, former or prospective insurance clients of Respondent Guillen.

g. It was not the usual occupation of Mss. Baker and Gross to receive and process loan applications or to provide loans to the public as an owner, officer, director or employee of an institution in the business of providing such loans.

h. Neither Ms. Baker nor Ms. Gross stood in a relationship with Respondent Guillen that gave rise to an insurable interest.

i. On April 13, 2007, the State of Missouri Secretary of State issued a "Final Order to Cease and Desist and Order Imposing Civil Penalties and Restitution" ("Final Order") against Respondent Guillen. In the Findings of Fact in the Final Order, the Secretary of State found, *inter alia*, that:

    i. The contract entered into by Mss. Baker and Gross and Respondent Guillen was an investment contract; and

    ii. Respondent represented to Mss. Baker and Gross as well as to the bank that he was representing the sisters as their investment broker.

    iii. In the Conclusions of Law in the Final Order, the Secretary of State found multiple violations by Respondent Guillen of:

1) Transacting business as an unregistered securities agent;

2) Offering nonexempt, unregistered securities;

3) Engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

j. Respondent Guillen did not report to the Director the administrative action taken against him by the Missouri Secretary of State within thirty (30) days of the final disposition of the matter, nor did he provide to the Director a copy of the order or other relevant legal documents.

6. In light of these facts, Respondent Guillen's insurance producer license is subject to discipline on the following grounds:

a. Obtaining a loan from an insurance client in violation of 20 CSR 700-1.140(3), which is grounds to discipline Respondent's insurance producer license pursuant to § 375.141.1(2) RSMo (Supp. 2009).[1]

b. By obtaining a loan from an insurance client, Respondent's license is subject to discipline 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.

c. Respondent failed to report to the Director within thirty days of the final disposition of the matter that another governmental agency in this state, the Missouri Secretary of State, had taken administrative action against him in violation of § 375.141.6, which is grounds to discipline Respondent's insurance producer license pursuant to § 375.141.1(2).

[1] All statutory references are to RSMo (Supp. 2009) unless otherwise indicated.

7. Title 20 CSR 700-1.140(3), Minimum Standards of Competency and Trustworthiness for Insurance Producers Concerning Personal Insurance Transactions, effectuates and aids in the interpretation of § 375.141.1(8), and states:

> No insurance producer shall obtain or solicit for a loan from an insurance client or former or prospective insurance client or any type of ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. This prohibition shall not apply—
> (A) When it is the usual occupation or practice of the insurance client or former or prospective insurance client to receive and process loan applications and to provide loans to the public as an owner, officer, director, or employee of an institution in the business of providing such loans; or
> (B) When there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer which gives rise to an insurable interest.

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

9. Section 375.141.6 provides:

> An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

10. On or about July 22, 2010, counsel for the Consumer Affairs Division sent to Respondent Guillen a settlement offer with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of documents which are the basis thereof. Counsel for the Consumer Affairs Division advised Respondent that he had sixty (60) days to review the materials provided and consider the proposed settlement offer.

11. Respondent Guillen admits to the facts alleged by the Consumer Affairs Division and outlined in this Consent Order. Respondent agrees that these facts constitute grounds to discipline his insurance producer license.

12. Respondent Guillen acknowledges that he has been advised that he may, either at the time the settlement agreement is signed by the parties or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement constitute grounds for disciplining Respondent's license.

13. Respondent Guillen further acknowledges that he understands he has the right to consult an attorney at his own expense.

14. Except as agreed to and provided in Paragraph 12, Respondent Guillen stipulates and agrees to waive any rights that he may have to a hearing before the Administrative Hearing Commission, the Director or Department, and any rights to seek judicial review or other challenge or contest 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 any and all liability and claims arising out of, pertaining to or relating to this matter.

15. 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**

16. The actions admitted by Respondent Guillen are grounds to discipline Respondent's Missouri non-resident insurance producer license pursuant to §§ 375.141.1(2) and (8).

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

18. 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 Respondent Jason M. Guillen insurance producer license (No. 324801) is hereby revoked.

**SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 4TH DAY OF NOVEMBER, 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 Respondent Jason M. Guillen has a right to a hearing, but that Respondent waived the hearing and consented to the issuance of this Consent Order.

Jason M Guillen
Jason M. Guillen
820 E. Montclair, # 603
Springfield, MO 65807
Phone: 4175974837

10.13.10
Date

Respondent Jason M. Guillen

Name: _____
Missouri Bar No. _____
Address: _____
_____
Phone: _____
Fax: _____

Date

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10/22/10
Date

Counsel for the Consumer Affairs Division