

BEFORE THE ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

DEC 02 2009

ADMINISTRATIVE HEARING  
COMMISSION

DIRECTOR, DEPARTMENT OF INSURANCE, )  
FINANCIAL INSTITUTIONS AND )  
PROFESSIONAL REGISTRATION )  
STATE OF MISSOURI, )

Petitioner, )

vs. )

JASON M. GUILLEN, )

Respondent. )

Serve: )

Jason M. Guillen )

820 E. Montclair, #603 )

Springfield, Missouri 65802 )

Telephone: Unknown )

Case No.:

COMPLAINT

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists for disciplinary action against Respondent Jason M. Guillen, and in support, states as follows:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration whose duties include, pursuant to Chapters 374 and 375, RSMo, the regulation, supervision, and discipline of insurance producers.
2. The Missouri Department of Insurance, Financial Institutions and Professional Registration ("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.

3. Section 375.141.4 RSMo (Supp. 2008)<sup>1</sup> provides that:

The director may also revoke or suspend pursuant to subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

4. The Commission has jurisdiction over this Complaint pursuant to § 621.045.

### COUNT I

5. Section 375.141.1 provides, in relevant part:

1. 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:

\* \* \*

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

6. Title 20 CSR 700-1.140, 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.

---

<sup>1</sup> All statutory references are to RSMo 2008 unless otherwise noted.

7. Respondent obtained 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(8).

8. The facts are as follows:

a. Alice Baker and Marion Gross are sisters who live together in Nixa, Missouri.

Respondent befriended the sisters through political and church work.

b. Marion Gross has power of attorney over Alice Baker.

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

d. 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.

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

f. Respondent Guillen, Ms. Baker and Ms. 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.

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

10. 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.

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

12. Sufficient grounds exist for disciplining Respondent Guillen's insurance producer license pursuant to §375.141.1(8).

### COUNT II

13. Petitioner realleges and expressly incorporates by reference the allegations in paragraphs 4 through 12.

14. Section 375.141.1 provides, in relevant part:

1. 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[.]

14. Respondent obtained 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).

15. The facts are as follows:

- a. Petitioner incorporates the allegations in Count I as though set forth herein.

16. Sufficient grounds exist for disciplining Respondent Guillen's insurance producer license pursuant to §375.141.1(2) for violating 20 CSR 700-1.140(3).

### COUNT III

17. Petitioner realleges and expressly incorporates by reference the allegations in paragraphs 4 through 12.

18. Section 375.141.1 provides, in relevant part:

1. 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[.]

19. Section 375.141.6 provides that:

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.

20. Respondent failed to report to the Director that another governmental agency in this 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).

21. The facts are as follows:

- a. 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.
- b. 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.
- c. In the Conclusions of Law in the Final Order, the Secretary of State found multiple violations by Respondent Guillen of:
  - i. Transacting business as an unregistered securities agent;

- ii. Offering nonexempt, unregistered securities;
  - iii. Engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.
- d. 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.
22. Sufficient grounds exist for disciplining Respondent Guillen's insurance producer license pursuant to §375.141.1(2) for violating § 375.141.6.

**WHEREFORE**, based on the foregoing, Petitioner respectfully requests the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent's insurance producer license pursuant to §§ 375.141.1(2) and (8) RSMo (Supp. 2008).

Respectfully submitted,



Mary S. Erickson, Bar # 42579  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration  
P.O. Box 690  
Jefferson City, MO 65102-0690  
Ph: (573) 751-2619  
Fax: (573) 526-5492

ATTORNEY FOR PETITIONER  
John M. Huff, Director  
Missouri Department of Insurance, Financial  
Institutions & Professional Registration  
301 West High Street, Room 530  
Jefferson City, Missouri 65101  
Telephone: (573) 751-4126