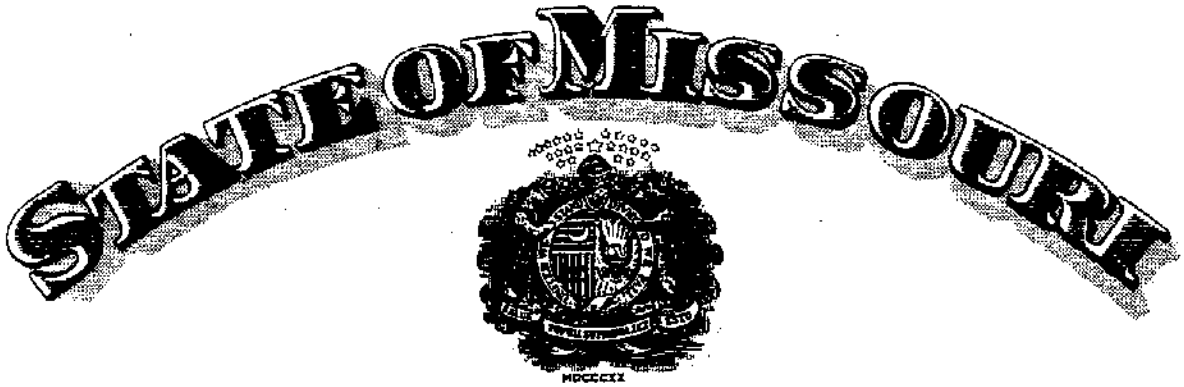



# DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

| | | |
|---|---|---|
| In the Matter of: | ) | |
| | ) | |
| KENNETH A. PARKER, | ) | Case No. 10-1213753C |
| | ) | |
| 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, Kristen E. Paulsmeyer, and Respondent Kenneth A. Parker have reached a settlement in this matter and Respondent has 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 Respondent Kenneth A. Parker ("Parker") an insurance producer license (No. 0343193) on February 17, 2005. The license expired on February 17, 2011.

4. The Consumer Affairs Division seeks to discipline Respondent Parker's insurance producer license and alleges the following regarding Respondent Parker:

a. The Department issued a subpoena duces tecum to Respondent Parker, pursuant to which Respondent Parker appeared at the Department and testified under oath on October 14, 2010 (the "Subpoena Conference").

b. At the Subpoena Conference, Respondent Parker admitted Toba Hoffner purchased ten annuity contracts and one life insurance policy directly from him as an insurance producer.

c. At the Subpoena Conference, Respondent Parker admitted that he entered into a Promissory Note on February 22, 2008 in which he

promised to pay Toba Hoffner the total principal sum of $293,000 with interest at San Carlos, California.

d. Toba Hoffner registered a California March 5, 2009 default judgment against Parker based on the Promissory Note on or about April 29, 2009 in Jackson County Circuit Court, Missouri. Marin County Superior Court, California, *Toba Hoffner v. Kenneth A. Parker*, Case No. CIV 084704.

e. On or about April 29, 2009, the Jackson County Circuit Court entered a judgment for Plaintiff Toba Hoffner and against Defendant Parker for damages in the amount of $280,130, prejudgment interest in the amount of $20,760, attorney fees in the amount of $5,360, and costs in the amount of $828 for a total amount of $307,078. *Toba Hoffner v. Kenneth A. Parker*, Case No. 0916-CV13285.

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

a. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere pursuant to § 375.141.1(8) RSMo (Supp. 2010).[1]

b. Obtaining or soliciting for a loan from an insurance client which is a violation of 20 CSR 700-1.140(3) which is grounds for discipline pursuant to § 375.141.1(2).

[1] All statutory references are to RSMo (Supp. 2010) unless otherwise indicated.

c. By engaging in any act, practice, or course of business which operated as a fraud or deceit upon any person in violation of § 375.144(4) which is grounds for discipline pursuant to § 375.141.1(2).

6. Section 375.141 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;
>
> * * *
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere [.]

7. Section 375.144 states, in relevant part:

> It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:
>
> * * *
>
> (4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

8. Title 20 CSR 700-1.140(3) states, in part:

> (3) 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--
>
> * * *

(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.

9. On or about March 21, 2011, counsel for the Consumer Affairs Division sent to Respondent Parker 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 Parker that he had sixty (60) days to review the materials provided and consider the proposed settlement offer.

10. Respondent Parker 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.

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

13. Except as agreed to and provided in Paragraph 10, Respondent Parker 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.

14. 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 allegations raised by the Consumer Affairs Division are grounds to discipline Respondent Parker's Missouri insurance producer license pursuant to §§ 375.141.1(2) and (8).

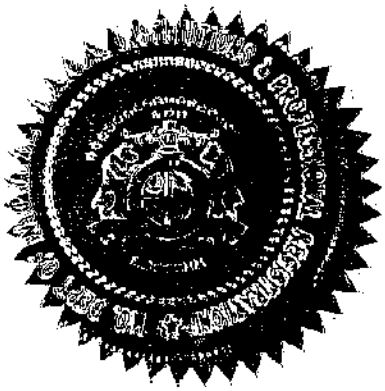
17. The Consumer Affairs Division is authorized to settle this matter and the Director is authorized to issue this Consent Order in the public interest pursuant to § 621.045 RSMo and § 536.060 RSMo (2000).

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 Kenneth A. Parker's insurance producer license (No. 0343193) is hereby revoked.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 13TH DAY OF MAY, 2011.



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 Kenneth A. Parker has a right to a hearing, but that Respondent waived the hearing and consented to the issuance of this Consent Order.

Kenneth A. Parker

Kenneth A. Parker
4206 NE Newbury Ct.
Lee's Summit, MO 64064
Telephone: (816) 373-1566
Telephone: (702) 592-4133

Date 5/9/11

Respondent

— N/A —

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

Date — N/A —

Kristen E. Paulsmeyer
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Date 5/11/11