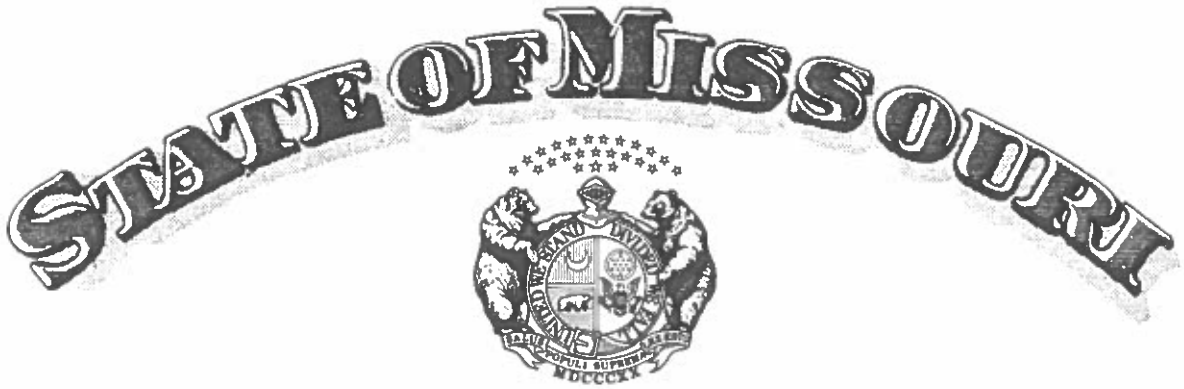

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

IN RE:	)	
	)	
CHARLES H. WEATHERS	)	
	)	
and	)	**Case Nos. 140528481C**
	)	**140605490C**
MOARK INSURANCE FIRM, LLC	)	
	)	
Respondents.	)	

CONSENT ORDER

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through legal counsel Mark J. Rachel, and Respondents Charles H. Weathers and MoArk Insurance Firm, LLC, through legal counsel Johnny K. Richardson, have reached a settlement in this matter and have agreed 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 (Supp. 2013),[1] include the supervision, regulation, and discipline of insurance producers and business entity producers.

2. The Consumer Affairs Division ("Division") of the Department has the duty of conducting investigations into the unfair or unlawful acts of insurance producers and business entity producers pursuant to the insurance laws of Missouri and has been authorized by the Director to investigate and initiate actions to enforce the insurance laws of Missouri, including insurance producer and business entity producer license discipline.

3. The Department issued Charles H. Weathers ("Weathers") a resident insurance producer license, license number 8064893, on January 12, 2011, which is currently set to expire on January 12, 2015.

4. Weathers is the sole owner and organizer of MoArk Insurance Firm, LLC, a Missouri limited liability company ("MoArk").

5. The Department issued MoArk a business entity producer license, license number 8065980, on February 3, 2011, which is currently set to expire on February 3, 2015.

6. On July 30, 2014, Weathers pled guilty to three counts of Violation of Fiduciary Responsibility, each a Class A Misdemeanor, and each in violation of § 375.051.2. The Information in Lieu of Felony Complaint charged that:

> [O]n or about February 27, 2013 ... [Weathers], a licensed insurance agent, knowingly and unlawfully appropriated for his own use the sum of $557.00

[1] All statutory references are to the Revised Statutes of Missouri (2000) as updated by the 2013 RSMo Supplement, unless otherwise noted.

> paid to him by Virgil Gipson as an insurance premium without providing an actual policy of homeowners insurance[; and]
>
> * * *
>
> on or about May 13, 2013 ... [Weathers], a licensed insurance agent, knowingly and unlawfully appropriated for his own use the sum of $925.26 paid to him by Lonnie Phillips as an insurance premium without providing an actual policy of homeowners insurance[; and]
>
> * * *
>
> on or about April 2, 2012... [Weathers], a licensed insurance agent, knowingly and unlawfully appropriated for his own use the sum of $1,400.00 paid to him by John Mitchum as insurance premiums without providing an actual policies [sic] of homeowners insurance[.]

State v. Charles H. Weathers, Ripley Co. Cir. Ct., Case No. 14RI-CR00133.

7. On July 31, 2014, the court convicted Weathers and sentenced him to one year of incarceration for each of the three counts, to be served concurrently, but suspended execution of the sentences and ordered Weathers to serve two years' supervised probation, pay $900.00 to the Law Enforcement Restitution Fund, "surrender his license to sell insurance[,]" "make restitution to John Mitchum[,]" and serve fifteen (15) days' "shock" incarceration. *Id.*

8. On August 14, 2014, counsel for Weathers sent an email to Karen Crutchfield, Special Investigator with the Department, that included attachments of documents from the criminal case and requested instruction as to the proper mechanics for Weathers to follow to surrender his license.

9. Weathers, as a partner, officer, or manager acting on behalf of MoArk, and as its Designated Responsible Licensed Producer of record with the Department, knew or

should have known of his own violations of § 375.051.2.

10. Neither Weathers nor MoArk reported to the Director the violations of § 375.051.2.

11. Neither Weathers nor MoArk took corrective action with respect to the violations of § 375.051.2.

12. Weathers acknowledges and understands that pursuant to § 375.141.1(2) the Director may revoke Weathers's resident insurance producer license because he violated an insurance law, specifically § 375.051.2. *Id.*

13. Weathers acknowledges and understands that pursuant to § 375.141.1(6) the Director may revoke Weathers's resident insurance producer license because he has been convicted of three crimes involving moral turpitude, specifically three counts of Violation of Fiduciary Responsibility, each a Class A Misdemeanor, each in violation of § 375.051.2, and each of which constitutes a separate and sufficient cause for license revocation.

14. Weathers acknowledges and understands that pursuant to § 375.146.2 the Director is obliged to revoke Weathers's resident insurance producer license because he has been convicted of thrice violating § 375.051.2. *Id.*

15. MoArk acknowledges and understands that pursuant to § 375.141.3 the Director may revoke MoArk's business entity producer license because it knew or should have known of Weathers's violations of § 375.051.2, but it neither reported the conduct to the Director nor took corrective action.

16. On or about November 13, 2014, counsel for the Division provided a

written description of the specific conduct for which discipline may be sought and a citation to the laws allegedly violated, together with copies of any documents upon which it based the allegations, and the Division's settlement offer, specifically this Consent Order, in accordance with § 621.045.4(1). Counsel for the Division further advised Weathers and MoArk that they had sixty (60) days to review the relevant documents and consider the proposed settlement offer in accordance with § 621.045.4(2).

17. Weathers and MoArk acknowledge and understand that they have the right to consult an attorney at their own expense and are represented by Johnny K. Richardson.

18. Weathers and MoArk further acknowledge that they have been advised that they may, either at the time this Consent Order is signed by all parties, or within fifteen (15) days thereafter, submit this Consent Order to the Administrative Hearing Commission for determination that the facts agreed hereby do not constitute grounds for discipline of Weathers's resident insurance producer license or MoArk's business entity producer license.

19. Except as provided in the preceding paragraph, Weathers and MoArk stipulate and agree to waive any waivable rights that they 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 release and hold harmless the Department, the Director and his agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

20. Weathers and MoArk acknowledge and understand that this Consent Order

is an administrative action and will be reported by the Department to other states. Weathers and MoArk further acknowledge and understand that this administrative action should be disclosed on future license applications and renewal applications and that it is their responsibility to comply with the reporting requirements of each state in which they may be licensed.

21. Each signatory to this Consent Order certifies by signing that he or it is fully authorized, in his or its own capacity, or by the named party he or it represents, to accept the terms and provisions of this Consent Order in their entirety, and agrees, in his or its personal or representative capacity, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

22. 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; [or]
>
> * * *
>
> (6) Having been convicted of a felony or crime involving moral turpitude[.]
>
> * * *
>
> 3. The license of a business entity licensed as an insurance producer may be suspended, revoked, renewal refused or an application may be refused if the director finds that a violation by an individual insurance producer was known or should have been known by one or more of the partners, officers or managers acting on behalf of the

business entity and the violation was neither reported to the director nor corrective action taken.

23. Section 375.051.2 provides:

> Any insurance producer who shall act on behalf of any applicant for insurance or insured within this state, or who shall, on behalf of any applicant for insurance or insured, seek to place insurance coverage, deliver policies or renewal receipts and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, shall be held responsible in a trust or fiduciary capacity to the applicant for insurance or insured for any money so collected or received by him or her.

24. Section 375.146.2 provides, in relevant part:

> Any person willfully violating any of the provisions of sections 375.012 to 375.141 is guilty of a Class A Misdemeanor and on conviction thereof, if the offender holds a license under these sections, the court imposing sentence shall order the department of insurance, financial institutions and professional registration to revoke the license.

25. "A plea of guilty ... admits all of the facts charged[.]" *Robinson v. State*, 491 S.W.2d 314, 315 (Mo. banc 1973).

26. Moral turpitude manifests as "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything 'done contrary to justice, honesty, modesty, and good morals.'" *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985) (quoting *In re Wallace*, 19 S.W.2d 625 (Mo. banc 1929)).

27. The facts hereby admitted by Weathers constitute cause for the Director to revoke his resident insurance producer license pursuant to § 375.141.1(2) and (6), in

conjunction with §§ 375.051.2 and 375.146.2.

28. The facts hereby admitted by MoArk constitute cause for the Director to revoke its business entity producer license pursuant to § 375.141.3, in conjunction with § 375.051.2.

29. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

30. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance of this Consent Order is in the public interest.

ORDER

IT IS ORDERED that the resident insurance producer license of Respondent Charles H. Weathers, license number 8064893, is hereby **REVOKED**.

IT IS FURTHER ORDERED that the business entity producer license of Respondent MoArk Insurance Firm, LLC, license number 8065980, is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10th **DAY OF** December, **2014.**

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 Charles H. Weathers and MoArk Insurance Firm, LLC have the right to a hearing, but that Charles H. Weathers and MoArk Insurance Firm, LLC have waived the hearing and agreed to the issuance of this Consent Order.

12-1-14

Charles H. Weathers
1203 Berry Lane
Doniphan, Missouri 63935
Telephone: (573) 996-6674

Date

12-1-14

MoArk Insurance Firm, LLC
by Charles H. Weathers, Owner
1203 Berry Lane
Doniphan, Missouri 63935
Telephone: (573) 996-6674

Date

12/5/14

Johnny K. Richardson, Missouri Bar #28744
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Date

12/08/14

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Date