



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In re:)
)
NORMAN J. MICHAELS, JR.,) **Case No. 131223676C**
)
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, Tammy S. Kearns, and Respondent Norman J. Michaels, Jr. 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 (“Department”) whose duties, pursuant to Chapters 374 and 375 RSMo,¹ include supervision, regulation, and discipline of insurance 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 companies

¹ All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

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 issued Norman J. Michaels, Jr. (“Michaels”) an individual non-resident insurance producer license (License No. 0260561) on September 3, 1998, which he subsequently renewed, and which expired on September 3, 2014.

4. The Division seeks to discipline Michaels’ individual non-resident insurance producer license and alleges the following:

a. On April 2, 2013, a Felony Complaint was filed against Michaels alleging that Michaels committed Grand Larceny in the Second Degree. *New York v. Norman J. Michaels Jr.*, Felony Complaint, Oneonta Town Ct. (April 2, 2013).

b. On October 3, 2013, an Indictment charged Michaels, *inter alia*, as follows:

i. Grand Larceny in the Second Degree, a Class C Felony, in violation of NY PENAL § 155.40(1), in that Michaels “acting in concert with [his co-defendant], about and between the 1st day of January, 2010 and the 31st day of October, 2010, in the County of Otsego and State of New York, did steal property valued in excess of \$50,000, to wit: [Michaels and his co-defendant] did steal approximately \$62,000 from [Mohawk Valley Physicians] Healthcare”; and

ii. Scheme to Defraud in the First Degree, a Class E Felony, in violation of NY PENAL § 190.65(1)(a), in that Michaels “acting in concert with [his co-defendant], about and between the 1st day of January, 2010 and the 31st day of October, 2010, in the County of Otsego and State of New York, did

engage in a scheme constituting a systematic ongoing course of conduct with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises, and thereby obtained property from one or more such persons.”

New York v. Robert R. Robinson and Norman J. Michaels, Jr., Otsego Co. Ct., Case No. 2013-069 (October 3, 2013).

c. On May 16, 2014, Michaels was convicted of one (1) count of Grand Larceny in the Second Degree, a Class C Felony, in violation of NY PENAL § 155.40(1) and the court sentenced Michaels to five (5) years’ probation and 500 hours community service. Michaels was also convicted of one (1) count of Scheme to Defraud in the First Degree, a Class E Felony, in violation of NY PENAL § 190.65(1)(a) and the court sentenced Michaels to 180 days’ incarceration and five (5) years’ probation to run concurrently with his other sentence. The court also fined Michaels \$5,000.00. *New York v. Norman J. Michaels, Jr.*, Otsego Co. Ct., Case No. 2013-069.

d. On July 9, 2013, the Kentucky Department of Insurance (“Kentucky”) revoked Michaels’ Kentucky non-resident insurance agent’s license. *In the Matter of: Norman J. Michaels, Jr.*, Order of Revocation, DOI No. 740765 (September 7, 2013).

e. Kentucky’s Order of Revocation concluded, in part, that Michaels violated KRS 304.9-467 by failing to report the New York criminal charges to Kentucky. *Id.*

f. Kentucky’s Order of Revocation notified Michaels that he may make a written application for a hearing within sixty (60) days after the effective date of the Order, which was July 9, 2013. *Id.*

g. Michaels failed to make a written application for a hearing. Therefore, Kentucky's Order of Revocation became final on September 7, 2013.

h. Kentucky's Order of Revocation was an administrative action taken against Michaels.

i. Michaels did not report the administrative action taken against him by Kentucky to the Director within thirty (30) days of the final disposition of the matter.

j. On June 24, 2014, the Ohio Department of Insurance ("Ohio") accepted the surrender of Michaels' Ohio non-resident insurance agent's license. *In re Norman J. Michaels, Jr., Request to Surrender for Cause for an Individual* (June 24, 2014).

k. Pursuant to the terms of Ohio's Request to Surrender for Cause for an Individual, Michaels waived any appeal rights. Michaels' surrender of his Ohio non-resident insurance agent's license and waiver of appeal rights was effective immediately after the Superintendent of Insurance approved and signed the Request to Surrender for Cause on June 24, 2014. *Id.*

l. Ohio's Request to Surrender for Cause for an Individual was an administrative action taken against Michaels.

m. Michaels did not report the administrative action taken against him by Ohio to the Director within thirty (30) days of the final disposition of the matter.

5. In light of these facts, Michaels' individual non-resident insurance producer license is subject to discipline pursuant to:

a. Section 375.141.1(2) because Michaels failed to report the administrative actions taken against him by Kentucky and Ohio to the Director within thirty (30) days of the final disposition of those matters, thereby violating § 375.141.6, an insurance law.

b. Section 375.141.1(2) because Kentucky found that Michaels violated KRS 304.9-467, a Kentucky insurance law, when he failed to report to Kentucky the criminal complaint filed against him in New York. *In the Matter of: Norman J. Michaels, Jr.*, Order of Revocation, DOI No. 740765 (September 7, 2013).

c. Section 375.141.1(2) because Michaels violated an insurance law, namely § 375.934, by engaging in an unfair trade practice under § 375.936(7), when Michaels made false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, agency, broker or other person, by scheming to defraud Mohawk Valley Physicians Healthcare. Michael's unfair trade practices in violation on § 375.934 were committed in conscious disregard of the law or with such frequency to indicate a general business practice to engage in that type of conduct.

d. Section 375.141.1(4) because Michaels misappropriated or converted moneys received in the course of doing insurance business when he stole approximately \$62,000.00 from Mohawk Valley Physicians Healthcare.

e. Section 375.141.1(6) because Michaels has been convicted of two (2) felonies:

i. *New York v. Norman J. Michaels, Jr.*, Otsego Co. Ct., Case No. 2013-069 (Grand Larceny in the Second Degree, a Class C Felony, in violation of NY PENAL § 155.40(1)); and

ii. *New York v. Norman J. Michaels, Jr.*, Otsego Co. Ct., Case No. 2013-069 (Scheme to Defraud in the First Degree, a Class E Felony, in violation of NY PENAL § 190.65(1)(a)).

f. Section 375.141.1(6) because Michaels has been convicted of two (2) crimes of moral turpitude:

i. *New York v. Norman J. Michaels, Jr.*, Otsego Co. Ct., Case No. 2013-069 (Grand Larceny in the Second Degree, a Class C Felony, in violation of NY PENAL § 155.40(1)); and

ii. *New York v. Norman J. Michaels, Jr.*, Otsego Co. Ct., Case No. 2013-069 (Scheme to Defraud in the First Degree, a Class E Felony, in violation of NY PENAL § 190.65(1)(a)).

g. Section 375.141.1(7) because Michaels admitted or has been found to have committed any insurance unfair trade practice or fraud. *See New York v. Norman J. Michaels, Jr.*, Otsego Co. Ct., Case No. 2013-069.

h. Section 375.141.1(8) because Michaels used fraudulent or dishonest practices or demonstrated untrustworthiness or financial irresponsibility in the conduct of business when he engaged in a scheme to defraud Mohawk Valley Physicians Healthcare and stole approximately \$62,000.00 from Mohawk Valley Physicians Healthcare.

i. Section 375.141.1(9) because Michaels' Kentucky non-resident insurance agent's license was revoked on July 9, 2013. *In the Matter of: Norman J. Michaels, Jr.*, Order of Revocation, DOI No. 740765 (September 7, 2013).

6. Michaels agrees that the facts contained in this Consent Order constitute grounds to discipline his insurance producer license pursuant to § 375.141.1(2), (4), (6), (7), (8), and (9).

7. Michaels and the Division desire to settle the allegations raised by the Division.

8. On or about September 12, 2014, counsel for the Division provided a written description of the specific conduct for which discipline was sought and a citation to the law and

rules allegedly violated, together with copies of any documents upon which it based the allegations, and the Division's settlement offer, namely, this Consent Order, in accordance with § 621.045.4(1). Counsel for the Division further advised Michaels that he had sixty (60) days to review the relevant documents and consider the proposed settlement offer in accordance with § 621.045.4(2).

9. Michaels acknowledges that he has been advised that he may, either at the time the Consent Order is signed by all parties, or within fifteen (15) 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 discipline of Michaels' insurance producer license.

10. Except as provided in paragraph 9 above, Michaels 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 release and hold harmless the Department, the Director, his agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

11. Michaels acknowledges and understands that he has the right to consult an attorney at his own expense.

12. Michaels acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Michaels further acknowledges and understands that this administrative action should be disclosed on future applications and renewal applications in this state and in other jurisdictions and that it is his responsibility to comply with the reporting requirements of each state in which he is licensed.

13. 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

14. 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;

* * *

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

* * *

(6) Having been convicted of a felony or crime involving moral turpitude;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(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) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

* * *

6. 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.

15. Section 375.934 provides:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

- (1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or
- (2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

16. Section 375.936 provides, in relevant part:

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance:

* * *

- (7) "Misrepresentation in insurance applications", making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, agency, broker or other person[.]

17. The allegations raised by the Division, and admitted to herein by Michaels, are grounds to discipline Michaels' individual non-resident insurance producer license pursuant to § 375.141.1(2), (4), (6), (7), (8), and (9).

18. The expiration of Michaels' individual non-resident insurance producer license does not deprive the Director of jurisdiction to discipline Michaels' license. Section 375.141.4.

19. 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.

20. 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 Norman J. Michael, Jr.'s individual non-resident insurance producer license (License No. 0260561) is hereby **REVOKED**.

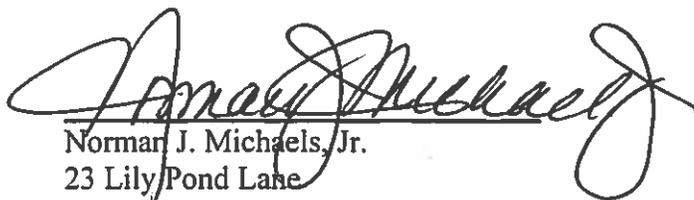
SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10th **DAY OF**
December, 2014.



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 Respondent Norman J. Michaels, Jr. has a right to a hearing, but that Norman J. Michaels, Jr. waived the hearing and consented to the issuance of this Consent Order.



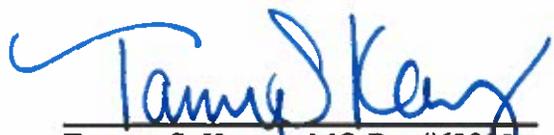
Norman J. Michaels, Jr.
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Telephone: (740) 704-6425
Respondent

11/1/14
Date

Counsel for Respondent
Name: _____
Missouri Bar No. _____
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Date



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12/4/14
Date