DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re:	)	
	)	Case No. 110607539C
Kenneth G. Neely,	)	
	)	
Respondent.	)	

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration takes up the above matter for consideration and disposition. The Consumer Affairs Division, through legal counsel Tamara W. Kopp, and Kenneth G. Neely 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 ("Director" of the "Department") whose duties, pursuant to Chapters 374, 375, and 381 RSMo,[1] include the supervision, regulation and discipline of insurance producers and business entity producers.

[1] All statutory references are to the 2010 Supplement to the Revised Statutes of Missouri unless otherwise noted.

2. The Consumer Affairs Division has the duty of conducting investigations into the acts of insurance producers under the insurance laws of this state and is authorized by the Director to investigate and to recommend enforcement action for violations of the insurance laws of this state. *See* § 374.190 RSMo. (Supp. 2000).

3. The Department issued Kenneth G. Neely ("Respondent" or "Neely") an insurance producer license on February 26, 1987 (License No. 0102229). Neely's insurance producer license was active until it expired on February 26, 2011.

4. On July 8, 2009, Neely was terminated from AXA Network, LLC and AXA Advisors, LLC (collectively "AXA"). This termination was based on Neely's admission that he "commingled and converted funds intended for investment to [his] own personal use."

5. The United States Attorney for the Eastern District of Missouri filed an Information whereby he charged Neely with one count of felony mail fraud in violation of 18 U.S.C. §§ 2 and 1341. *United States of America v. Kenneth G. Neely*, Case No. 4:09CR558JCH, Indictment filed August 27, 2009.

6. Neely pleaded guilty to the single charge of felony mail fraud and the United States District Court sentenced him to 37 months incarceration, 3 years supervised release, and a criminal monetary penalty of $618,370. *United States of America v. Kenneth G. Neely*, Case No. 4:09CR558JCH, Judgment, February 26, 2010. Neely is incarcerated at the Federal Correctional Institution in Terre Haute, Indiana, with a release date scheduled for December 17, 2012.

7. Neely willfully and knowingly devised a scheme to defraud and obtain in excess of six hundred forty-one thousand dollars ($641,000) by false pretenses. The scheme to defraud was an investment scheme whereby Neely solicited individuals to invest with a fictitious entity known as "The St. Louis Investment Club". The scheme to defraud operated as a pyramid or "Ponzi" scheme in which earlier investors were routinely paid returns on their investments using funds obtained from subsequent investors, rather than from returns on legitimate investments, such as the sale of real estate.

8. Neely willfully and knowingly commingled and converted funds intended for investment into his personal use.

9. On November 4, 2009, the Missouri Secretary of State ("SOS") issued an Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not be Imposed ("Order to Cease and Desist"). In the Order to Cease and Desist, the Enforcement Section within SOS petitioned for an imposition of a civil penalty of up to $10,000 for Neely's multiple violations of §§ 409.3-301, 409.4-402, and 409.5-501, RSMo (Supp. 2008). Neely was given thirty days to request a hearing, but he did not do so. *In the Matter of Kenneth Neely, CRD#1586038*, Case No. AP-09-41, Order to Cease and Desist and Order to Show Cause Why Restitution, Civil Penalties, and Costs Should Not be Imposed dated November 4, 2009.

10. SOS issued a Final Order to Cease and Desist and Order Imposing Civil Penalties and Awarding Costs against Neely on February 17, 2010. *In the*

Matter of Kenneth Neely, CRD#1586038, Case No. AP-09-41, Final Order to Cease and Desist and Order Imposing Civil Penalties and Awarding Costs dated February 17, 2010.

11. On April 21, 2010, the Texas Department of Insurance revoked Neely's insurance producer license. *In Re Kenneth G. Neely*, Official Order of the Commissioner of Insurance of the State of Texas, Official Order No. 10-0316 dated April 21, 2010.

12. Neely's felony wire fraud conviction is grounds to discipline his insurance producer license pursuant to § 375.141.1(6) because Neely was convicted of a felony that is also a crime of moral turpitude. *See Neibling v. Terry*, 177 S.W.2d 502, 503 (Mo. banc 1944) ("We hold the offense of using the mails to defraud involves moral turpitude.").

13. Neely violated § 375.141.7 because he failed to report his criminal prosecution for a felony or crime involving moral turpitude to the Director within thirty days of the initial pretrial hearing date. Neely's insurance producer license is subject to discipline pursuant to § 375.141.1(2) because Neely violated § 375.141.7.

14. Neely's conduct which led to his felony mail fraud conviction is grounds to discipline his insurance producer license 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 or elsewhere.

15. The Texas Department of Insurance's revocation of Neely's insurance producer license is grounds to discipline his insurance producer license pursuant to § 375.141.1(9) for having an insurance producer license revoked in another state.

16. Neely admits the facts alleged by the Consumer Affairs Division as outlined in this Consent Order.

17. Neely admits that these facts constitute grounds to discipline his insurance producer license pursuant to §§ 375.141.1(2), (6), (8), and (9).

18. Neely has the right to consult counsel at his own expense.

19. Neely has been advised that he may, either at the time the Consent Order is signed by all parties, or within fifteen 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 disciplining Neely's Missouri insurance producer license.

20. Except as provided in paragraph 19 above, Neely 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 releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from all liability and claims arising out of, pertaining to, or relating to this matter.

21. 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

22. The expiration of Neely's license does not deprive the Director of jurisdiction to discipline the license. *See* § 375.141.4.

23. The facts admitted by Neely are grounds to discipline Neely's Missouri insurance producer license pursuant to § 375.141.1(2), (6), (8) and (9).

24. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046 and 621.045 and § 536.060 RSMo. (2000).

25. 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 Kenneth G. Neely's Missouri insurance producer license (No. 0102229) is hereby REVOKED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 14TH DAY OF OCTOBER, 2011.

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

7-29-2011

Kenneth G. Neely, Register #36613-044
Respondent
FCI Terre Haute
Federal Correctional Institution
P.O. Box 33
Terre Haute, Indiana 47808

Date

10/12/11

Counsel for Respondent (if any)
Printed Name: Janis Good - Assistant Federal Public Defender
Missouri Bar No. 34389
Address: 1010 S. Market St. Suite 200 St. Louis, MO, 63101
Telephone: 314-241-1255
Facsimile:

Date

10-13-11

Tamara W. Kopp
Counsel for Consumer Affairs Division
Missouri Bar No. 59020
Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: (573) 751-2619
Facsimile: (573) 526-5492
Tamara.kopp@insurance.mo.gov

Date