DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re:	)	
	)	
RONALD E. BROWN, JR.,	)	**DIFP No. 07-0907352C**
	)	
and	)	**AHC No. 10-2282 DI**
	)	
BROWN INSURANCE & BROKERAGE AGENCY, LLC.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DISCIPLINE

Based on the competent and substantial evidence on the whole record, I, John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, hereby issue the following findings of fact, conclusions of law, and order of discipline:

Findings of Fact

1. John M. Huff is the duly appointed Director ("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 and business entity producers.

2. The Department originally issued an insurance producer license to Respondent Ronald E. Brown, Jr. ("Brown") on February 6, 1997, license number 0106244, which was subsequently renewed and then cancelled (surrendered) at Brown's request on April 20, 2007.

3. The Department originally issued a business entity producer license to Brown Insurance & Brokerage Agency, LLC ("Agency") on July 8, 2003, license number 8016477, which was subsequently cancelled (surrendered) at the Agency's request on April 20, 2007.

4. The Director filed a Complaint with the Administrative Hearing Commission ("Commission") on December 8, 2010, seeking a finding that cause existed for disciplining Brown's insurance producer license and the Agency's business entity producer license.

5. On January 26, 2011, the Agency was served with a copy of the Complaint by certified mail. The Agency never filed an Answer to the Complaint.

6. On February 22, 2011, Brown was personally served with a copy of the Complaint. Brown filed an Answer on April 1, 2011.

7. On December 20, 2011, the Director filed a First Amended Complaint.

8. On May 10, 2012, the Director filed a Motion for Summary Decision and Suggestions in Support. The Commission gave Brown and the Agency until May 24, 2012 to respond to the Motion, but neither Brown nor the Agency filed a response.

9. On June 5, 2012, the Commission issued its Decision finding cause to discipline Brown's insurance producer license pursuant to § 375.141.1(4), (5), (6), (7) and (8) RSMo (Supp. 2003).[1] The Commission also found cause to discipline the Agency's business entity

[1] All statutory references are to the 2003 Supplement to the Revised Statutes of Missouri unless otherwise noted.

producer license pursuant to §§ 375.141.1(5) and (8) and 375.141.3. The Commission found as follows:

a. On January 6, 2010, Brown pleaded guilty to and was convicted of Conspiracy to Commit Wire Fraud and Money Laundering, a Class D Felony, in violation of 18 U.S.C. §§371, 1343, 1956, and 2, and Aid and Abet Wire Fraud, a Class C Felony, in violation of 18 U.S.C. §§1343 and 2. As a result, the court sentenced Brown to 121 months' imprisonment and three (3) years' supervised release. *United States of America v. Ronald E. Brown, Jr.*, United States District Court, District of Kansas, Case Number 2:07CR20163-001-KHV.

b. As part of the above-referenced criminal prosecution, Brown entered into a plea agreement on October 21, 2008. In the plea agreement, Brown admitted that in his capacity as an insurance producer for the Agency, he provided "proof of insurance" documents that were included in fraudulent loan applications, issued an insurance binder that facilitated the demand and payment of money purportedly due for construction work that was not done, and accepted premium payments for policies that were never issued.

c. In Brown's capacity as a partner, officer, or manager of the Agency, Brown knew or should have known of the actions he was committing as an insurance producer for the Agency and failed to report to the Director or take corrective action with regard to his own violations.

d. The Agency, through its partners, officer, or manager, knew or should have known of Brown's violations and failed to report Brown's actions to the Director or take corrective action for those violations.

e. On January 8, 2010, Brown pleaded guilty to and was convicted of Conspiracy to Commit Interstate Transportation of Funds Obtained by Fraud and Wire Fraud, a Class D Felony, in violation of 18 U.S.C. §371. As a result, Brown was sentenced to thirty (30) months' imprisonment, fifteen (15) months concurrent and fifteen (15) months consecutive to Case 2:07CR20163-001-KHV. *United States of America v. Ronald E. Brown, Jr.*, United States District Court, Western District of Missouri, Case Number 08-00297-03-CR-W-FJG.

f. As part of the above-referenced criminal prosecution, Brown entered into a plea agreement on January 8, 2009. In the plea agreement, Brown admitted to conspiring to obtain money from mortgage lenders and title companies by means of materially false and fraudulent pretenses, representations, and promises, and by the concealment of material facts, thereby committing interstate transportation of funds obtained by fraud and wire fraud.

10. The Commission concluded as follows in its Decision:

a. Brown is subject to discipline pursuant to § 375.141.1(4) for misappropriating and converting money received in the course of doing insurance business. Specifically, Brown accepted premium payments from property owners for policies that were never provided.

b. Brown and the Agency are subject to discipline pursuant to § 375.141.1(5) for intentionally misrepresenting the terms of actual insurance contracts. Specifically, Brown, in his capacity as an insurance producer for the Agency, provided "proof of insurance" documents that Brown knew would be submitted to lenders to obtain

mortgage loans and issued an insurance binder that facilitated the demand and payment of money purportedly due for construction work that was not done.

c. Brown is subject to discipline pursuant to § 375.141.1(6) for being convicted of three felonies, which are also crimes of moral turpitude.

d. Brown is subject to discipline pursuant to § 375.141.1(7) for committing fraud. Specifically, Brown admitted in his plea agreements to participating in wire fraud and money laundering schemes, and to conspiracy to commit interstate transportation of funds obtained by fraud and wire fraud.

e. Brown and the Agency are subject to discipline pursuant to § 375.141.1(8) for using fraudulent and dishonest practices and demonstrating untrustworthiness and financial irresponsibility in the conduct of insurance business. Specifically, Brown's actions as set out in the two plea agreements constituted fraudulent and dishonest practices, and demonstrated untrustworthiness and financial irresponsibility in the conduct of business. In addition, Brown caused the Agency to aid and abet in the wire fraud by issuing the insurance binder.

f. The Agency is subject to discipline pursuant to § 375.141.3 for failing to report or take corrective action concerning a violation by an individual insurance producer when one or more of the Agency's partners, officers, or managers knew or should have known of the violation. Specifically, Brown, as a partner, officer, or manager of the Agency and acting on the Agency's behalf, knew of his own violations and failed to report the violations to the Director or take corrective action.

11. The Commission certified the record of its proceeding to the Director pursuant to

§ 621.110.

12. Thereafter, the Director's hearing officer had Brown personally served with a Notice of Hearing and served the Agency by certified mail and first class mail with a Notice of Hearing, which set the Disciplinary Hearing for 9:30 a.m., October 18, 2012, in Room 530 of the Harry S. Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

13. On October 10, 2012, Brown contacted Tammy Kearns, counsel for the Department's Consumer Affairs Division ("Division"), and requested to attend the Disciplinary Hearing by teleconference since he is incarcerated. In an effort to allow Brown additional time to make arrangements to appear via teleconference, counsel for the Division filed a Motion for Continuance.

14. The Director's hearing officer granted the Motion for Continuance, cancelled the October 18, 2012 hearing, and issued an Amended Notice of Hearing and Order that rescheduled the Disciplinary Hearing for 3:00 p.m. on Wednesday, December 19, 2012, in Room 530 of the Harry S. Truman State Office Building in Jefferson City, Missouri.

15. Neither Brown nor the Agency appeared at the Disciplinary Hearing on December 19, 2012. Tammy Kearns appeared as counsel for the Division. *Disciplinary Hearing Transcript, ("Tr.")*, pp. 4 - 6.

16. At the hearing, the Division, through counsel, presented the Commission's record of proceedings and recommended to the hearing officer, Kristen Paulsmeyer, that Brown's insurance producer license and the Agency's business entity producer license be revoked. *Tr.*, pp. 9 - 14.

17. The Division's evidence consisted of Exhibits 1, 3, and 4. *Tr.* pp. 11 - 13.

18. The Division presented evidence of the Commission's findings and service of the Notice of Hearing for the Disciplinary Hearing upon Brown and the Agency. *Tr.* pp. 9 - 13.

19. The hearing officer admitted the Division's Exhibit 1, the Commission's certified record of proceedings; Exhibit 3, the Notice of Hearing and certified mailing green card that was accepted by Tina Collins on behalf of the Agency; and Exhibit 4, the Notice of Hearing, affidavit of personal service, and invoice for service showing that Brown had been personally served. *Tr.* pp. 11 - 13.

20. The hearing officer also confirmed that the Division had provided copies of all exhibits to Brown and the Agency prior to the disciplinary hearing. *Tr.* pp. 13.

21. The Director hereby adopts and incorporates the June 5, 2012 Decision of the Administrative Hearing Commission and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Ronald E. Brown, Jr. and Brown Ins. & Brokerage Agency, LLC,* No. 10-2282 DI (Mo. Admin. Hrg. Comm'n June 5, 2012).

22. After the disciplinary hearing, the Division submitted proposed findings of fact, conclusions of law and order.

Conclusions of Law

23. Section 374.051.2 RSMo (Supp. 2011), relating to a proceeding to revoke or suspend a license, states, in relevant part:

> If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine

appropriate discipline.

24. Section 375.141.4 provides, "The director may also revoke or suspend . . . any license issued by the director where the licensee has failed to renew or has surrendered such license."

25. The Administrative Hearing Commission found, in this case, that Brown's cancellation of his license and of the Agency's business entity producer license is the same as surrendering the licenses. *See Order, Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Ronald E. Brown, Jr. and Brown Ins. & Brokerage Agency, LLC,* No. 10-2282 DI (Mo. Admin. Hrg. Comm'n March 20, 2012).

26. Section 621.110 (Supp. 2011) outlines the procedure after the Commission finds cause to discipline a license. That statute provides, in relevant part:

> Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee . . ., the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. . . . Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing[.] . . . The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. . . .

27. Where an agency seeks to discipline a license, the Commission "finds the predicate facts as whether cause exists" for the discipline, and then the agency "exercises final

decision making authority concerning the discipline to be imposed." *Tendai v. Board of Reg'n for the Healing Arts*, 161 S.W.3d 358, 364-65 (Mo. banc 2005), *overruled on other grounds*, *Albanna v. Board of Reg'n for the Healing Arts*, 293 S.W.3d 423, 428 n.2 (Mo. banc 2009).

28. Section 375.141 states, 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:
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> * * *
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
>
> (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
>
> (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[.]
>
> * * *
>
> 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.

29. The Director has the discretion to discipline Brown's insurance producer license

and the Agency's business entity producer license, including the discretion to revoke such license. §§ 374.051.2, 375.141, and 621.110.

30. The principal purpose of § 375.141 is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

31. Brown misappropriated and converted money received in the course of doing business; was convicted of three felonies, which were also crimes of moral turpitude; and committed fraud.

32. In addition, Brown, in his capacity as an insurance producer for the Agency intentionally misrepresented the terms of actual insurance contracts; caused the Agency to use fraudulent and dishonest practices, and demonstrated untrustworthiness and financial irresponsibility in the conduct of business; and knew of his own violations but failed to report them to the Director and failed to take corrective action.

33. Based on the nature and severity of the aforementioned conduct, sufficient grounds exist for revoking Brown's insurance producer license pursuant to §§ 375.141.1(4), (5), (6), (7) and (8) and the Agency's business entity producer license pursuant to §§ 375.141.1(5) and (8) and 375.141.3.

ORDER

Based on the foregoing findings and conclusions, the insurance producer license of **Ronald E. Brown, Jr.** (License No. 0106244) is hereby **REVOKED**.

Based on the foregoing findings and conclusions, the business entity producer license of **Brown Insurance & Brokerage Agency, LLC** (License No. 8016477) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 28TH **DAY OF** JANUARY**, 2013.**

John M. Huff, Director
Missouri Department of Insurance, Financial Institutions and Professional Registration

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of January, 2013, a copy of the foregoing Findings of Fact, Conclusions of Law and Order of Discipline, was served by regular mail and certified mail, to the following:

Ronald E. Brown Jr.; 11756-031
FCI Englewood
Federal Correctional Institution
9595 West Quincy Avenue
Littleton, Colorado 80123

Certified No. 7009 3410 0001 9255 6006

Brown Insurance & Brokerage Agency, LLC
c/o Registered Agent: Donald E. Maxwell, L.L.C.
4700 Belleview Avenue, Suite 404
Kansas City, Missouri 64112

Certified No. 7009 3410 0001 9255 6013

By hand-delivery and electronic mail to:

Tammy Kearns, Esq.
Missouri Department of Insurance, Financial
Institutions and Professional Registration
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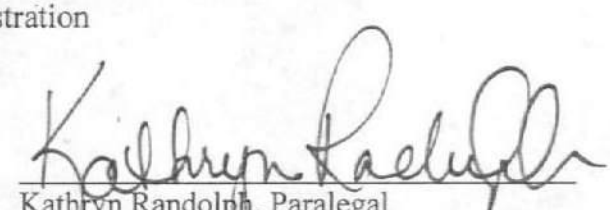

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