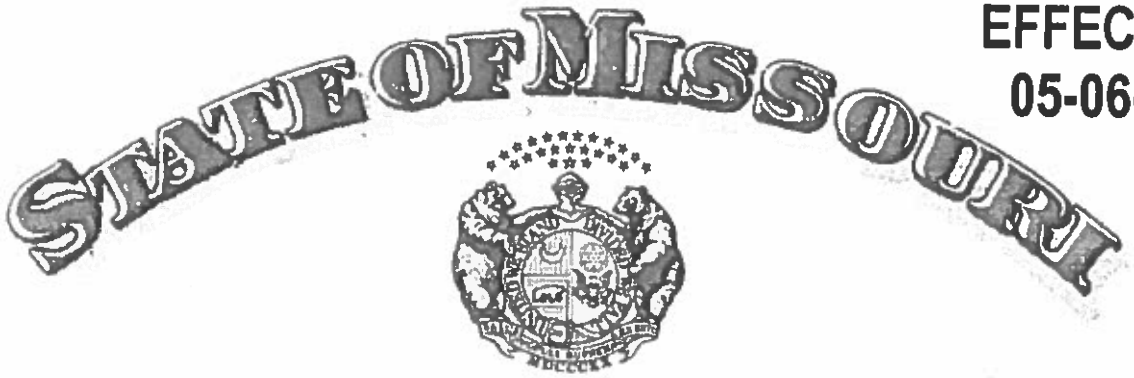
FINAL ORDER
EFFECTIVE
05-06-16



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	**Case No. 160114029C**
Samantha Marie Russell,	)	
	)	
Applicant.	)	

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 Cheryl C. Nield, and Applicant Samantha Marie Russell 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

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

licensure, supervision, regulation, and discipline of insurance producers in the State of Missouri.

2. The Consumer Affairs Division ("Division") has the duty of conducting investigations into the qualifications of insurance producer license applicants under the insurance laws of this state and is authorized by the Director to investigate complaints and to recommend enforcement action for violations of the insurance laws of this state.

3. Samantha Marie Russell ("Russell") is a Missouri resident with a residential address of 3878 W. Elm Place, Arnold, Missouri 63010.

4. On December 21, 2015, the Department received Russell's Uniform Application for Individual Producer License/Registration ("Application") to be a title insurance producer.

5. In her Application, Russell disclosed, in response to Background Question Number 1, that she was "convicted of a misdemeanor, had a judgment withheld or deferred, or...[was] currently charged with committing a misdemeanor[.]" Russell provided documentation with her Application showing that she has twice been convicted of municipal ordinance violations. In particular, in September 2012, Russell was convicted of possession of drug paraphernalia, and in February 2013, she was convicted of shoplifting. In each case, Russell was sentenced to a fine.

6. Russell also indicated in her Application that she worked at that time at Integrity Title Solutions, LLC, 222 S. Central Avenue, Suite 105, Clayton, Missouri 63105, as an administrative assistant. As part of the application process, Russell explained that, among other duties, she sometimes deposited earnest money into escrow

and provided receipts for earnest money deposited into escrow, even though she did not have a title insurance producer license.

7. Section 375.141.1 provides, in relevant part:

> 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]
>
> * * *
>
> (12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed[.]

8. Section 381.031(19), RSMo Cum. Supp. 1999,[2] an insurance law, provides, in part:

> "Title insurance business" or "business of title insurance" means:
>
> (a) Issuing as insurer or offering to issue as insurer a title policy;
>
> (b) Transacting or proposing to transact by a title insurer, title agency, or title agent any of the following activities when conducted or performed by a title agent, title agency, or title insurer in conjunction with the issuance of its title insurance:
>
> a. Soliciting or negotiating the issuance of a title insurance policy;
>
> b. Guaranteeing, warranting, or otherwise insuring the correctness of title searches;

[2] This statute is not published in either RSMo 2000 or RSMo Cum. Supp. 2013, but it remains in effect. The statute was repealed by Senate Bill 894 (2000), but reinstated after the Missouri Supreme Court ruled SB 894 unconstitutional in *Home Builders of Greater St. Louis v. State of Missouri*, 75 S.W.3d 267 (Mo. banc 2002).

c. Handling of escrows, settlements, or closings;

d. Execution of title insurance policies, reports, commitments, binders, and endorsements;

e. Effecting contracts of reinsurance; or

f. Abstracting, searching, or examining titles[.]

9. Section 381.115, an insurance law, provides, in part:

1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent.

2. It is unlawful for any person to transact business as:

* * *

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015 or is exempt from licensure under subsection 3 of this section.

10. Russell acknowledges and understands that under § 375.141.1(2), the Director may refuse to issue a resident title insurance producer license to her because Russell violated § 381.115.1 and .2(2), insurance laws, by handling earnest money and depositing it in escrow and issuing receipts for earnest money that went into escrow without a title insurance producer license.

11. Russell acknowledges and understands that under § 375.141.1(12), the Director may refuse to issue a resident title insurance producer license to her because Russell knowingly acted as an insurance producer though not licensed to do so when she handled earnest money and deposited it in escrow and issued receipts for said earnest money.

12. Russell acknowledges and understands that she has the right to consult counsel at her own expense.

13. Russell stipulates and agrees to waive any waivable rights that she 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 Division from all liability and claims arising out of, pertaining to, or relating to this matter.

14. Russell acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Russell further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications, if required, and that it is her responsibility to comply with the reporting requirements of each state in which she may be licensed.

15. 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.

16. The actions admitted by Russell are cause to refuse to issue her a resident title insurance producer license pursuant to § 375.141.1(2) and (12).

17. The Director may impose orders in the public interest under § 374.046.

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 the Department will issue a resident title insurance producer license to Russell, subject to the following conditions:

1. Russell shall not handle, conduct, or perform closings, settlements, or escrows for consumers. This prohibited activity includes making deposits or withdrawals from any escrow or trust account.

2. Russell shall not have signatory authority on any fiduciary trust account, as those accounts are described in § 381.022.2, or any other account where consumer funds are held in escrow.

3. Within ten (10) business days of this Consent Order being fully and finally executed by the Director, Russell shall report to the Division whether she is employed in the title industry and, if so, her job functions and the name, address, and phone number of the employer for whom she works.

4. Russell shall report to the Division within five (5) business days of knowledge that she is changing employers or job functions.

5. Russell shall report to the Division within five (5) business days of a change of her residential or business addresses or telephone numbers.

6. Russell shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to her by the Department within five (5) business days of receipt.

7. If a consumer complaint is communicated directly to Russell, Russell shall send the Department a copy of the complaint. If Russell is responsible for responding to the complaint, Russell shall also send a copy of Russell's response to the consumer to the Department within five (5) business days of Russell's receipt of the consumer complaint.

8. Russell shall report to the Department any violation of or failure to comply with the laws set forth in Chapters 374, 375, and 381, and all regulations promulgated thereunder, on her part, within five (5) business days of such violation or failure to comply.

9. Russell shall report to the Division any and all of the following incidents involving Russell: guilty plea, *Alford* Plea, nolo contendere plea, finding of guilt, or conviction concerning a felony or misdemeanor. Russell shall report all such incidents to the Division within five (5) business days of their occurrence.

10. Russell shall report to the Division any administrative action taken against Russell by any other governmental agency in Missouri or any other jurisdiction within five (5) business days of the final disposition of such administrative action.

11. The conditions listed in the immediately preceding ten (10) paragraphs of this Order and this Consent Order will expire two (2) years from the date this Consent Order is fully and finally executed and issued, or will terminate upon the refusal, revocation, or other discipline by the Director of Russell's title insurance producer license.

IT IS FURTHER ORDERED, as follows:

12. Russell shall read and review Chapters 374, 375, and 381 of the Revised Statutes of Missouri and 20 CSR 500 and 20 CSR 700, laws and regulations governing title insurance producers (available on the Department's website at http://insurance.mo.gov/laws/381title.php). To prove that she has completed a review of said statutes and regulations, Russell shall provide a notarized affidavit, attached hereto as Exhibit 1, indicating that she has completed said review, to Marjorie Thompson, Special Investigator, Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri 65102, within sixty (60) days of the date that this Consent Order is fully executed and issued.

13. Russell shall complete ten (10) hours of continuing education related to "Ethics" to be performed within one (1) year of title insurance producer license issuance. This continuing education requirement shall be in addition to the eight (8) hours of continuing education required pursuant to § 381.118. Within thirty (30) days before undertaking such additional continuing education related to "Ethics," Russell must provide the course description(s) for any course(s) that she would propose to take to fulfill this requirement to Marjorie Thompson, Special Investigator, Missouri Department of Insurance, Financial Institutions and Professional Registration, for approval of said coursework to ensure that said coursework is sufficiently related to "Ethics." If Marjorie Thompson or her supervisor declines to approve such coursework, Russell must select another course or courses and provide those descriptions to Marjorie Thompson for approval as described above. Finally, Russell must provide her certificate(s) or other

proof of completion relative to the ten (10) additional hours of continuing education described above to Marjorie Thompson, Special Investigator, Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri, 65102, also within one (1) year of title insurance producer license issuance.

14. If Russell maintains her resident title insurance producer license beyond the initial term and complies with the terms of this Consent Order, Russell may apply to renew her title insurance producer license and the Director shall consider the renewal application in accordance with Chapters 374, 375, and 381, without regard to the above described grounds to refuse to issue a title insurance producer license to Russell under § 375.141.1(2) and (12).

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies, as necessary and without limitation, as authorized by Chapters 374, 375, and 381, including remedies for violations of, or failure to comply with, the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 20th DAY OF APRIL, 2016.

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

Samantha Marie Russell, Applicant
3878 W. Elm Place
Arnold, Missouri 63010
(314) 717-7352

4-15-16
Date

Counsel for Applicant
Name: _____
Bar No. _____
Address: _____
_____
Telephone: _____

Date

Cheryl C. Nield
Missouri Bar No. 41569
Counsel for Consumer Affairs Division
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
Cheryl.Nield@insurance.mo.gov

4-18-16
Date

In the Matter of:)
)
Samantha Marie Russell,) Case No. 160114029C
)
Applicant.)

STATE OF MISSOURI)
)
COUNTY OF Jefferson)

AFFIDAVIT OF SAMANTHA MARIE RUSSELL

Before me, the undersigned authority, personally appeared Samantha Marie Russell who, being by me duly sworn, deposed as follows:

1. My name is Samantha Marie Russell, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

2. I have as of this date personally read and reviewed Chapters 374, 375 and 381, RSMo and 20 CSR 500 and 20 CSR 700, the laws and regulations governing title insurance producers (available on the website for the Department of Insurance, Financial Institutions and Professional Registration at http://insurance.mo.gov/laws/381title.php).

3. Further affiant sayeth naught.

Samantha Marie Russell

In witness whereof I have hereunto subscribed my name and affixed my official seal this 15th day of April, 2016.

Notary

My commission expires: SUSAN D. MUHR
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: April 15, 2019
Commission Number: 15545380

EXHIBIT
1