

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of)
)
ADAM J. UTZ,)
)
and)
)
ADAM UTZ INSURANCE)
AGENCY INC.)
)
Respondents.)

Case No. 10-1118694C

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, Kristen E. Paulsmeyer, and Respondents Adam J. Utz and Adam Utz Insurance Agency Inc. have reached a settlement in this matter and Respondents have consented to the issuance of this Consent Order.

Findings of Fact

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, include supervision, regulation, and discipline of insurance producers.

2. The Consumer Affairs Division of the Department has the duty of conducting investigations into the unfair or unlawful acts of insurance producers and companies 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 originally issued Respondent Adam J. Utz ("Utz") a non-resident insurance producer license (No. 0344681) on March 14, 2005. The license remains active and is set to expire on March 14, 2011.

4. The Department issued a business entity producer license (No. 8036935) to Respondent Adam Utz Insurance Agency Inc. ("Utz Insurance Agency") on October 8, 2009. The license remains active and is set to expire on October 8, 2011. Department records indicate Utz is the owner and designated registered licensed producer of Utz Insurance Agency.

5. The Consumer Affairs Division seeks to discipline Respondent Utz's insurance producer license and Respondent Utz Insurance Agency's business entity producer license and alleges the following regarding Respondents Utz and the Utz Insurance Agency:

- a. On or about July 31, 2009, American Family Insurance terminated Utz for inappropriate business practices, forging a signature, and questionable handling of client premiums.
- b. On or about September 20, 2010, the Commissioner of Insurance of the State of Kansas revoked the resident insurance agent's licenses of Adam J. Utz and the agency license of Adam Utz Insurance Agency, Inc. and found that Utz improperly withheld, misappropriated, or converted money or property received in the course of doing business and used dishonest practices, demonstrated untrustworthiness or financial irresponsibility in the conduct of business. *Final Order In the Matter of the Kansas Nonresident¹ Insurance Agent's License of Adam Utz NPN #8394062 and Adam Utz Insurance Agency, Inc. #364659290-000, Docket No. 4176--SO.*
- c. The Commissioner of Insurance of the State of Kansas found that Utz was the sole agent affiliated with Utz Insurance Agency.
- d. Utz and Utz Insurance Agency failed to report to the Department the disciplinary action taken against them in Kansas within thirty days of the final disposition of the administrative action as required by statute.

6. In light of these facts, Respondent Utz's non-resident insurance producer license and Respondent Utz Insurance Agency's business entity producer license are subject to discipline on the following grounds:

¹ The Final Order indicates that Utz was a resident of Kansas.

- a. Having their insurance producer license, or its equivalent, denied, suspended or revoked in any other state pursuant to § 375.141.1(9) RSMo (Supp. 2010).²
 - b. Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business pursuant to § 375.141.1(4)
 - c. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere pursuant to § 375.141.1(8).
 - d. Failing to report to the Director any administrative action taken against them in another jurisdiction or by another governmental agency within thirty days of the final disposition of the matter pursuant to § 375.141.6 which is a grounds for discipline pursuant to § 375.141.1(2).
 - e. By Utz Insurance Agency's failure to report to the Director or take corrective action for the violations of an individual insurance producer, Adam J. Utz, pursuant to § 375.141.3.
7. 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 All statutory references are to RSMo (Supp. 2010) unless otherwise indicated.

(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;

* * *

(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[.]

* * *

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.

* * *

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.

8. On or about February 24, 2011, counsel for the Consumer Affairs Division sent to Respondent Utz and Respondent Utz Insurance Agency a

settlement offer with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of documents which are the basis thereof. Counsel for the Consumer Affairs Division advised Respondents Utz and the Utz Insurance Agency that they have sixty (60) days to review the materials provided and consider the proposed settlement offer.

9. Respondent Utz and Respondent Utz Insurance Agency acknowledge that they have been advised that they may, either at the time the settlement agreement is signed by the parties or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement constitute grounds for disciplining Respondent Utz and Respondent Utz Insurance Agency's licenses.

10. Respondent Utz and Respondent Utz Insurance Agency admit to the facts alleged by the Consumer Affairs Division and outlined in this Consent Order. Respondents Utz and the Utz Insurance Agency agree that these facts constitute grounds to discipline Utz's non-resident insurance producer license and Utz Insurance Agency's business entity producer license.

11. Respondent Utz and Respondent Utz Insurance Agency further acknowledge that they understand they have the right to consult an attorney at their own expense.

12. Except as agreed to and provided in Paragraph 9, Respondent Utz and Respondent Utz Insurance Agency stipulate and agree to waive any rights that they

may have to a hearing before the Administrative Hearing Commission, the Director or Department, and any rights to seek judicial review or other challenge or contest the terms and conditions of this Order and forever releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from any and all liability and claims arising out of, pertaining to or relating to this matter.

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

16. The allegations raised by the Consumer Affairs Division are grounds to discipline Respondent Utz's non-resident insurance producer license and the business entity producer license of Respondent Utz Insurance Agency pursuant to §§ 375.141.1(2), (4), (8) and (9).

17. The allegations raised by the Consumer Affairs Division are grounds to discipline Respondent Utz Insurance Agency pursuant to § 375.141.3.

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

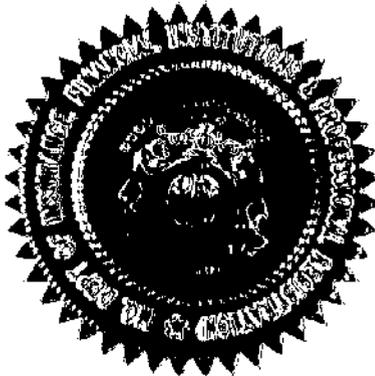
19. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

ORDER

IT IS ORDERED THAT Respondent Adam J. Utz's non-resident insurance producer license (No. 0344681) is hereby revoked.

IT IS FURTHER ORDERED THAT Respondent Adam Utz Insurance Agency Inc.'s business entity producer license (No. 8036935) is hereby revoked.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 7th
DAY OF MARCH, 2011.

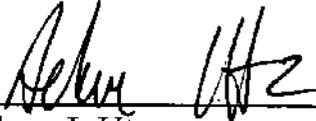


A handwritten signature in black ink, appearing to read "John M. Huff", written over a horizontal line.

JOHN M. HUFF, Director
Missouri Department of Insurance,
Financial Institutions & Professional
Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondent Adam J. Utz and Respondent Adam Utz Insurance Agency Inc. have a right to a hearing, but that Respondents waived the hearing and consented to the issuance of this Consent Order.



Adam J. Utz

2/28/11
Date

on his own behalf and on behalf of
Adam Utz Insurance Agency Inc.
16150 S. Bradley Drive
Olathe, Kansas 66062-3926
Telephone: (913) 583-1219
Respondents

Counsel for Respondents

Date

Missouri Bar No. _____

Telephone: _____

Facsimile: _____



Kristen E. Paulsmeyer

3/4/11
Date

Counsel for Consumer Affairs Division
Missouri Bar No. 56458
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