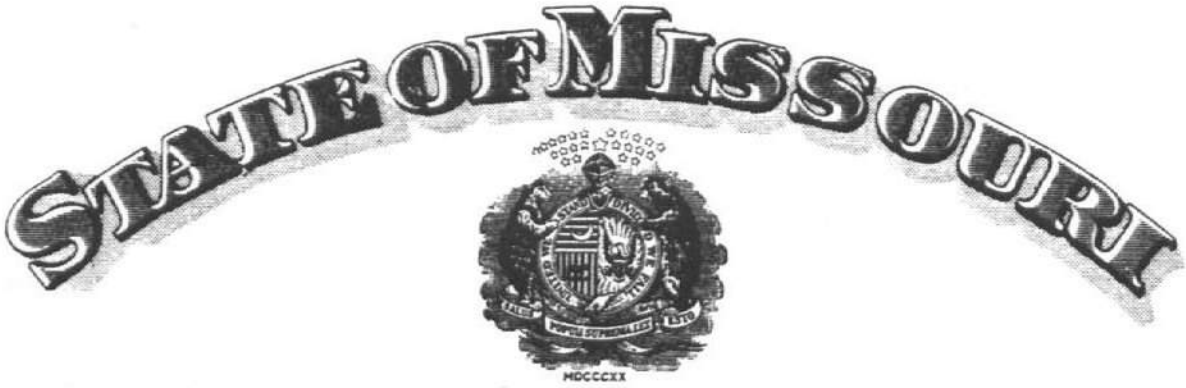

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	
CHRISTOPHER ZOMPHIER,	)	**Case No. 120215186C**
	)	
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 counsel Tamara W. Kopp, and Christopher Zomphier, 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 385, RSMo,[1] include the supervision, regulation and discipline of motor vehicle extended service contract producers.

2. The Department's Consumer Affairs Division ("Division") has the duty of conducting investigations into the acts of motor vehicle extended service contract producers

[1] All statutory references are to the 2011 Supplement to the Revised Statutes of Missouri unless otherwise noted.

under Chapters 374, 375, and 385, and is authorized to investigate and recommend enforcement action, including motor vehicle extended service contract producer license application refusal.

3. On March 31, 2001, Christopher Zomphier ("Zomphier"), with the intent to deliver, possessed more than five grams of marijuana and five grams of cocaine, controlled substances, knowing of their presence and nature, in violation of § 195.211.

4. On or about September 6, 2001, Zomphier was charged by indictment with three counts of Possession with Intent to Deliver a Controlled Substance in the St. Louis County Circuit Court.

5. On or about May 22, 2002, Zomphier pleaded guilty to three counts of Class B Felony Possession with Intent to Deliver a Controlled Substance. *State v. Christopher Zomphier*, St. Louis County Circuit Court, Case No. 01CR-003970.

6. On May 22, 2002, the Court sentenced Zomphier to seven years imprisonment with the Department of Corrections on each count, to run concurrently, including 120 days shock incarceration pursuant to § 559.115, followed by probation.

7. On December 22, 2003, Zomphier did knowingly and intentionally possess cocaine powder, a Schedule II controlled substance, in violation of 21 U.S.C. 841(a)(1).

8. On January 14, 2004, Zomphier was charged by indictment with the Felony of Possession with the Intent to Distribute Cocaine in United States District Court, Eastern District of Missouri.

9. On May 28, 2004, Zomphier pleaded guilty to a Felony of Possession With the Intent to Distribute Cocaine. *United States v. Christopher Zomphier*, United States District Court, Eastern District of Missouri, Case No. 4:04CR27 JCH.

10. On May 28, 2004, the Court sentenced Zomphier to the custody of the United States Bureau of Prisons for a period of 46 months.

11. On December 16, 2004, Zomphier was discharged from probation by the St. Louis County Circuit Court while he was serving a federal sentence of 46 months with a release date of April 24, 2007.

12. On December 5, 2011, Zomphier submitted an Application for Motor Vehicle Extended Service Contract Producer License ("Application") to the Department.

13. Zomphier acknowledges and understands that under § 385.209.1(5), the Director may refuse to issue a motor vehicle extended service contract producer license to Zomphier because Zomphier has been convicted of four felonies. *State v. Christopher Zomphier*, St. Louis County Circuit Court, Case No. 01CR-003970; *United States v. Christopher Zomphier*, United States District Court, Eastern District of Missouri, Case No. 4:04CR27 JCH.

14. Zomphier acknowledges and understands that he has the right to consult counsel at his own expense.

15. This Consent Order is entered pursuant to §§ 374.046 and 385.216. As such, any interested person aggrieved by this Consent Order may request a hearing before the Director or review of this Consent Order in a circuit court under § 374.055. Although under the Department's interpretation of the relevant statutes, review of this Consent Order by the Administrative Hearing Commission is not available, Zomphier nevertheless may have the right, under § 621.045, to submit this Consent Order to the Administrative Hearing Commission for a determination that the facts agreed to in this consent order constitute grounds to refuse Zomphier's license.

16. Zomphier stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission, 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.

17. 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

18. The actions admitted by Zomphier are grounds to refuse his Missouri motor vehicle extended service producer license application pursuant to § 385.209.1(5).

19. The Director may impose orders in the public interest under §§ 374.046 and 385.216.

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 the Department will issue a motor vehicle extended service contract producer license to Christopher Zomphier subject to the conditions set forth herein.

IT IS ORDERED that Christopher Zomphier shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department or a consumer within five business days of receipt. Zomphier shall report in writing all consumer complaints,

both written and oral, to the Consumer Affairs Division of the Department, within five business days of receipt. If a complaint was not communicated to Zomphier by the Department, Zomphier shall send a copy of the complaint and Zomphier's response to the consumer within five business days of receipt.

IT IS ORDERED that Christopher Zomphier shall report to the Consumer Affairs Division any and all of the following incidents involving Zomphier: probation violation, probation revocation, arrest, citation, guilty plea, nolo contendere plea, finding of guilt or conviction concerning a felony or misdemeanor. Zomphier shall report all such incidents to the Consumer Affairs Division within five business days of their occurrence.

IT IS ORDERED that for five years subsequent to the date of this executed Consent Order, Christopher Zomphier will voluntarily surrender his license to the Department within 30 days of Zomphier's entry of a guilty plea, nolo contendere plea, finding of guilt or conviction for a felony, regardless of whether sentence is imposes, suspended or executed.

IT IS ORDERED that Christopher Zomphier shall report to the Consumer Affairs Division any administrative action undertaken or initiated against Zomphier in another jurisdiction or by another governmental agency in this state within five business days after Zomphier receives notification of the initiation of such administrative action.

IT IS ORDERED that Christopher Zomphier shall report to the Consumer Affairs Division any violation of or failure to comply with the laws set forth in Chapters 374, 375, or 385, RSMo within five business days of such violation or failure to comply.

IT IS ORDERED that if Christopher Zomphier maintains his motor vehicle extended service contract producer license beyond the initial term and complies with the terms of this Consent Order, Zomphier may apply to renew his license and the Director shall consider the

renewal application in accordance with Chapters 374, 375, and 385 without regard to Zomphier's prior felonies in *State v. Christopher Zomphier*, St. Louis County Circuit Court, Case No. 01CR-003970 and *United States v. Christopher Zomphier*, United States District Court, Eastern District of Missouri, Case No. 4:04CR27 JCH.

IT IS ORDERED that the Director may pursue additional legal remedies, as determined appropriate by the Director, and without limitation, as authorized by Chapters 374, 375, and 385 including remedies for violation of, or failure to comply with, the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 15th DAY OF MAY, 2012.

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 Christopher Zomphier may have a right to a hearing, but that Christopher Zomphier has waived the hearing and consented to the issuance of this Consent Order.

Christopher Zomphier
12398 Dunedin Lane
St. Louis, Missouri 63146
Respondent

5/8/2012
Date

Counsel for Respondent
Name: _____
Missouri Bar No. _____
Address: _____
_____
Telephone: _____

Date

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

5-10-12
Date