



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In re:)
) DIFP No. 120327323C
JANET E. HARMS.)
) AHC No. 12-1360 DI
)

**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.

2. The Department issued Respondent Janet E. Harms (“Harms”) an insurance producer license (No. 0230759) on January 5, 2007. Such license expired on January 5, 2013.

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3. The Director filed a Complaint with the Administrative Hearing Commission (“Commission”) on July 31, 2012, seeking a finding that cause existed for disciplining Harms’s insurance producer license. On October 15, 2012, the director served Harms with a copy of the Complaint. Harms did not file an Answer.

4. The Director filed a motion for summary decision on November 20, 2012. Harms filed no response.

5. On January 10, 2013, the Commission issued its Decision finding cause to discipline Harms’s insurance producer license pursuant to § 375.141.1(2) and (9) RSMo (Supp. 2011)¹ because Harms’s Kansas insurance agent’s license had been revoked by the Commissioner of Insurance of the State of Kansas, and Harms failed to report the Kansas Order to the Director, in violation of § 375.141.6.

6. In support of its finding of cause for discipline, the Commission found the following facts:

- a. On September 27, 2011, Harms and the Commissioner of Insurance of the State of Kansas entered into a Consent Agreement and Order (“the Kansas Order”).
- b. The Kansas Order revoked Harms’s Kansas insurance agent’s license based on the finding that Harms had “improperly withheld, misappropriated, or converted money property received in the course of doing insurance business” and “used fraudulent or dishonest practices and demonstrated untrustworthiness or financial irresponsibility in the conduct of business.”
- c. Harms signed the Kansas Order which became final when the Commissioner’s

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

designee signed it on September 27, 2011.

d. Harms did not report the Kansas Order to the Director by October 27, 2011.

As of November 7, 2012, Harms had not reported the Kansas Order to the Director.

7. The Commission certified the record of its proceeding to the Director pursuant to § 621.110 RSMo.

8. The Director served Harms by certified and regular mail with a Notice of Hearing, which set the disciplinary hearing for 9:00 a.m., March 19, 2013, at the Department, 301 West High Street, Room 530, Jefferson City, Missouri. As of the hearing, the hearing officer had not received the certified mail receipt. However, the U.S. Postal Service had not returned as undeliverable the Notice of Hearing sent to Harms by regular mail.

9. On March 19, 2013, the Director, through his hearing officer, Carolyn H. Kerr, held the disciplinary hearing. Neither Harms nor anyone representing her appeared at the disciplinary hearing. Mary S. Erickson, representing the Consumer Affairs Division, recommended that Harms's insurance producer license be revoked.

10. At the hearing, the hearing officer took official notice of the Commission's record of proceedings and admitted it into evidence as Exhibit 1. The hearing officer also admitted the Notice of Hearing as Exhibit 2.

11. The Director hereby adopts and incorporates the January 10, 2013 Decision of the Administrative Hearing Commission referenced herein and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof'l Regis'n v. Janet E. Harms*, No. 12-1360 DI (Mo. Admin. Hrg. Comm'n).

Conclusions of Law

12. Section 374.051.2, relating to a proceeding to revoke or suspend a license, states, in relevant part:

2. 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.

13. Section 375.141 states, in pertinent 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) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

* * *

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

* * *

4. The director may also revoke or suspend pursuant to subsection 1 of this section any license issued by the director where the licensee has failed to renew or has surrendered such license.

* * *

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.

14. Section 621.110 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.

15. Pursuant to §§ 374.051.2, 375.141.1 and .4, and 621.110, RSMo, the Director has the discretion to discipline Harms's insurance producer license, including the discretion to revoke such license.

16. Where an agency seeks to discipline a license, the Commission finds the predicate facts as to whether cause exists for the discipline, and then the agency exercises final decision-making authority concerning the discipline to be imposed. *State Bd. of Regis'n for the Healing Arts v. Trueblood*, 368 S.W.3d 259, 267-68 (Mo. App. W.D. 2012).

17. 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. 1984).

18. Kansas revoked Harms's insurance producer license, or its equivalent, through a

consent order that Harms signed. However, she failed to report the administrative action to the Director and thereby violated an insurance law.


19. Based on the nature and severity of the aforementioned conduct, sufficient grounds exist for revoking Harms's insurance producer license pursuant to § 375.141.1(2) and (9).

ORDER

Based on the foregoing findings and conclusions, the insurance producer license of **Janet E. Harms** (License No. 0230759) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10TH DAY OF APRIL, 2013.



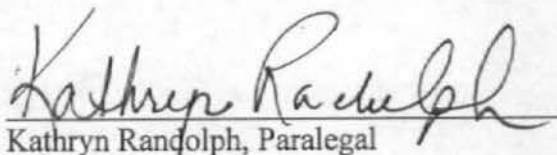

John M. Huff, Director
Missouri Department of Insurance,
Financial Institutions and
Professional Registration

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of April, 2013, a copy of the foregoing was served by regular mail and certified mail to the following:

Janet E. Harms
21610 Columbia Road
Spring Hill, KS 66083-4049

Certified Mail No. 7009 0080 0000 1907 5408



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