



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

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

IN RE: )  
)  
JANEANE ELAINE BROCKMAN, ) Case No. 140909656C  
)  
Respondent. )

**CONSENT ORDER**

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, takes up the above matter for consideration and disposition. The Consumer Affairs Division, through counsel Mark J. Rachel, and Respondent Janeane Elaine Brockman, represented by Ann Monaco Warren, English & Monaco, P.C., have reached a settlement in this matter and have agreed 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 and 375 RSMo<sup>1</sup> include the supervision, regulation, and discipline of insurance producers.

2. The Consumer Affairs Division (“Division”) of the Department has the duty of conducting investigations into the conduct of insurance producers pursuant to the insurance laws of Missouri and has been authorized by the Director to investigate and initiate actions to enforce

<sup>1</sup> All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement.

the insurance laws of Missouri, including insurance producer license discipline. The Division conducted an investigation of Janeane Elaine Brockman ("Mrs. Brockman") and made the following allegations:

- a. The Department issued Mrs. Brockman a resident insurance producer license, number 0269499, on March 24, 2004, which was renewed on March 25, 2016.
- b. Since 2004, Mrs. Brockman has resided at 5804 Leatherbrook Drive, Columbia, Missouri 65203-9108.
- c. Mrs. Brockman was appointed by American Family Life Assurance Company of Columbus ("AFLAC") to act as an insurance producer on AFLAC's behalf from August 23, 1999 until November 9, 2011.
- d. On or about August 26, 2004, there was submitted to AFLAC a personal insurance policy application on behalf of Donald Spicer. The transmittal specified that the policy would be sent to the applicant, and the application listed 5804 LEATHERBROOK DR COLUMBIA MO 65203 as the address of Donald Spicer.
- e. Donald Spicer never lived at 5804 Leatherbrook Drive, Columbia, Missouri 65203.
- f. On or about September 28, 2004, there was submitted to AFLAC a personal insurance policy application on behalf of Kimberly Elder. The transmittal specified that the policy would be sent to the applicant, and the application listed 5804 LEATHERBROOK DR COLUMBIA MO 65203 as the address of Kimberly Elder.
- g. Kimberly Elder never lived at 5804 Leatherbrook Drive, Columbia, Missouri

65203.

- h. On or about December 30, 2004, there was submitted to AFLAC a personal insurance policy application on behalf of Mrs. Brockman's daughter, Ashley Brockman, purportedly employed at Raw Knee Sports.
- i. Ashley Brockman was never employed by Raw Knee Sports.
- j. The foregoing insurance policy applications to AFLAC resulted in credit to Mrs. Brockman, for which Mrs. Brockman received commissions, travel, awards, and other benefits.
- k. The address of a prospective insured on an insurance policy application is a material fact because it represents where any notices or correspondence relative to the policy, such as claims processing, are to be sent. Additionally, each of the transmittals associated with the foregoing insurance policy applications submitted to AFLAC affirmatively indicated that any actual policies issued were to be delivered to the applicants' addresses as provided on those applications.
- l. Mrs. Brockman shredded, threw away, or disregarded insurance policies mailed to her Columbia, Missouri address relative to the foregoing insurance policy applications submitted to AFLAC.
- m. AFLAC's internal investigation estimated about \$80,000.00 of loss in commission and policy claim payments as a result of transmittal of the foregoing insurance policy applications.
- n. While conducting business on behalf of AFLAC, Mrs. Brockman used laptop computers to transmit insurance policy applications. Passwords to the laptop computers, and to access certain programs and confidential information therein

(such as prospective insureds' addresses, social security numbers, dates of birth, etc.), were physically attached to the laptop computers so that any person in possession could have access. Mrs. Brockman and other insurance producers liberally shared the computers.

- o. On May 22, 2014, pursuant to the Director's April 2, 2014 subpoena, Mrs. Brockman testified under oath that she was then appointed with Assurity Life Insurance Company, but her appointment had been terminated effective November 8, 2013.

3. Pursuant to § 375.141.1(2), the Director may discipline Mrs. Brockman's resident insurance producer license for violation of a regulation of the Director, specifically 20 CSR 700-1.140(1)(C) and (5), if the Director finds she shredded or otherwise disposed of insurance policies delivered to her residence instead of providing them to the insureds.

4. Pursuant to § 375.141.1(2), the Director may discipline Mrs. Brockman's resident insurance producer license if the Director finds she violated an insurance law, specifically § 375.144(3), if the Director finds she repeatedly included incorrect applicant addresses on insurance policy transmittals or applications she submitted, or caused to be submitted, to AFLAC.

5. Pursuant to § 375.141.1(2), the Director may discipline Mrs. Brockman's resident insurance producer license if the Director finds she violated an insurance law, specifically § 374.210.1(1), if the Director finds she falsely stated that she was appointed to conduct business on behalf of Assurity Life Insurance Company.

6. Pursuant to § 375.141.1(2), the Director may discipline Mrs. Brockman's resident insurance producer license if the Director finds she violated an insurance law, specifically

§ 375.934,<sup>2</sup> if the Director finds she made misrepresentations on or relative to insurance policy applications, under § 375.936(7), with such frequency as to indicate a general business practice to engage in that type of conduct, or with a conscious disregard of the Unfair Trade Practice Act or regulations promulgated pursuant thereto.

7. Each violation of an insurance law or regulation of the Director constitutes separate and sufficient cause to discipline a resident insurance producer license pursuant to § 375.141.1(2).

8. Pursuant to § 375.141.1(7), the Director may discipline Mrs. Brockman's resident insurance producer license if the Director finds she has admitted or been found to have committed insurance unfair trade practices or fraud.

9. Pursuant to § 375.141.1(8), the Director may discipline Mrs. Brockman's resident insurance producer license if the Director finds she used dishonest practices or demonstrated incompetence or untrustworthiness in the conduct of her insurance business while appointed by AFLAC.

10. Mrs. Brockman and the Division desire to settle the allegations raised by the Division.

11. Mrs. Brockman has been advised and understands that she has the right to consult an attorney in this matter.

12. Mrs. Brockman further acknowledges that she has been advised that she may, either at the time this Consent Order is signed by all parties or within fifteen (15) days thereafter, submit this Consent Order to the Administrative Hearing Commission for determination whether this Consent Order constitutes grounds for discipline of Mrs. Brockman's insurance producer license.

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<sup>2</sup> All references to the Unfair Trade Practice Act, § 375.930 *et seq.*, are to the 2000 Missouri Revised Statutes.

13. Except as provided in paragraph 12 above, Mrs. Brockman and the Division stipulate and agree to waive any waivable rights 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 mutually release and hold harmless each other, including the Department, the Director, and his agents, from all liability and claims arising out of, pertaining to, or relating to this matter.

14. This Consent Order is an administrative action and will be reported by the Department to other jurisdictions. This administrative action should be disclosed on future license applications and renewal applications in this state and in other jurisdictions where applicable and required, and it is Mrs. Brockman's responsibility to comply with the reporting requirements of each jurisdiction in which she may be licensed.

15. The signatories below represent, acknowledge, and warrant that they are authorized to sign this consent.

#### CONCLUSIONS OF LAW

16. 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;

\* \* \*

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud; [or]

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

17. Section 375.144, an insurance law, provides in relevant part:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

\* \* \*

(3) Engage in any pattern or practice of making any false statement of material fact[.]

18. Section 374.210.1, an insurance law, provides in relevant part:

It is unlawful for any person in any investigation, examination, inquiry, or other proceeding under this chapter ... to:

(1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter[.]

19. Section 375.934, an insurance law, provides:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

20. Section 375.936 provides, in relevant part:

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance:

\* \* \*

(7) "Misrepresentation in insurance applications," making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, agency, broker or other person[.]

21. Title 20 CSR 700-1.140(1)(C), a regulation of the Director, provides in relevant part:

Every insurance producer shall provide every purchaser of a personal insurance policy with written evidence of coverage at the time coverage is bound or the policy is issued, whichever occurs earlier, or as soon after as is reasonably possible, but in no event later than thirty (30) days after the date the coverage is bound or the policy is issued.

22. Title 20 CSR 700-1.140(5), a regulation of the Director, provides in relevant part:

(A) Every insurance producer shall maintain a complete set of records for each personal insurance policy applied for or procured through the licensee, except to the extent the maintenance of these records is, in whole or in part, the responsibility of the insurer. Where it is the insurer's responsibility to maintain these records, this responsibility shall be delineated in a written document(s), a copy of which shall be retained by the licensee. The records which must be maintained shall include, but not be limited to, the following:

1. Any policy applications, declaration pages, endorsements, riders or binders associated with the policy; [and]
2. Any written correspondence or copies of records transmitted to or received by the licensee concerning the policy[.]

\* \* \*

(D) All records required to be maintained under this section shall be maintained for as long as the personal insurance policy in question is in force and for at least three (3) years thereafter.

23. Mrs. Brockman does not agree with certain findings in the investigation and it is the position of Mrs. Brockman that this Consent is a compromise of disputed facts and legal allegations and that the signing of this Consent and Mrs. Brockman's consent to take the remedial actions required by it and to pay the voluntary forfeiture set forth in it does not constitute an admission of wrongdoing or liability on her part or any other person or entity's part and is done to fully and completely resolve the investigation in this matter.

24. The Director is authorized to settle this matter and issue this Consent Order in the

public interest pursuant to §§ 374.046, 536.060, and 621.045.

25. The terms set forth in this Consent Order are an appropriate disposition of this matter and issuance of this Consent Order is in the public interest. This Consent Order embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not merely recital.

26. The parties agree that neither party is the prevailing party and enter into this agreement for the purposes of settlement only. Both parties bear their own attorneys' fees and costs.

27. Mrs. Brockman, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights for procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the above-referenced investigation.

28. This Consent Order shall be governed and construed in accordance with the laws of the State of Missouri.

29. This Consent Order shall not become effective until execution by the Director.

30. The signatories below request that the Director issue an order approving this consent and ordering the relief agreed to in this Consent Order, and consent to the issuance of such an order.

#### **ORDER**

IT IS THEREFORE ORDERED that Janeane Elaine Brockman, insurance producer licensee number 0269499, shall complete eight (8) total hours of continuing education on the topics of ethics and fraud prevention before March 24, 2017, in addition to the sixteen hours

generally required by § 375.020, and submit proof of completion to the attention of Mark J. Rachel at the Missouri Department of Insurance, Financial Institutions and Professional Registration, 301 West High Street, Room 530, Jefferson City, Missouri 65101.

IT IS FURTHER ORDERED that for the next two (2) years or until her resident insurance producer license is suspended, surrendered, revoked, or expires, whichever is soonest:

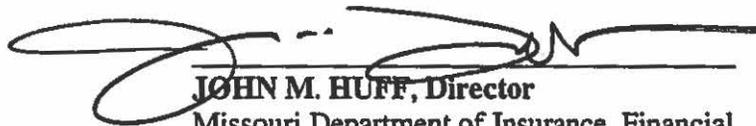
1. Janeane Elaine Brockman shall respond to all inquiries from the Consumer Affairs Division in accordance with 20 CSR 100-4.100, by sending via U.S. Mail an adequate response to the inquiry within twenty (20) days from the date the Division mails the inquiry.
2. Janeane Elaine Brockman shall report to the Consumer Affairs Division any administrative action taken against her by any other state or federal governmental agency in Missouri or any other jurisdiction as required by Missouri law.

IT IS FURTHER ORDERED that Janeane Elaine Brockman shall pay the amount of one thousand dollars (\$1,000.00) as a forfeiture authorized by § 374.046.15, and pursuant to § 374.280 made payable to the State School Moneys Fund for the above-described violations, after being afforded the opportunity to consult legal counsel, in accordance with §§ 374.049.11 and 374.280.2 and Article IX, Section 7 of the Missouri Constitution. Such forfeiture shall be due immediately by money order or cashier's check made payable to the State School Moneys Fund, and shall be forwarded with this executed Consent Order to the attention of Mark J. Rachel, Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri 65102. Any correspondence and/or money order or cashier's checks shall reference the case name and number appearing at the top of this Consent Order.

IT IS FURTHER ORDERED that if Janeane Elaine Brockman fully complies with the terms of this Consent Order, she may apply to renew her resident insurance producer license and the Director shall consider any renewal application in accordance with Chapters 374 and 375, but without regard to the investigation which is the subject matter of this Consent Order.

IT IS FINALLY ORDERED that the Director may pursue any available legal remedies as determined appropriate for violating or failing to comply with the terms and conditions of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 10<sup>th</sup> DAY OF  
JANUARY, 2017.



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

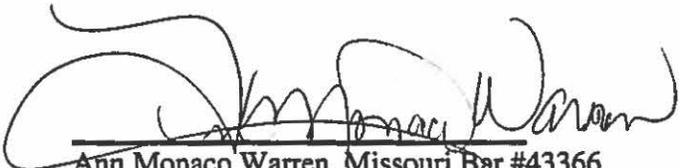
**CONSENT AND WAIVER OF HEARING**

The undersigned persons understand and acknowledge that Janeane Elaine Brockman has the right to a hearing, but that Janeane Elaine Brockman has waived the hearing and agreed to the issuance of this Consent Order. The signatories below request that the Director issue an order approving this consent and ordering the relief agreed to in this Consent Order, and consent to the issuance of such an order.



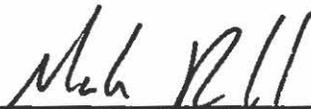
Janeane Elaine Brockman, Respondent  
5804 Leatherbrook Drive  
Columbia, Missouri 65203  
Telephone: (573) 447-0164

1-06-2017  
Date



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January 6, 2017  
Date



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6 January 2017  
Date