

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

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

IN RE:

KRISTOPHER PATRICK HERBST,)
)
Applicant.)

Case No. 171016399C

CONSENT ORDER

CHLORA LINDLEY-MYERS, 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 Kristopher Patrick Herbst have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

1. Chlora Lindley-Myers 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, RSMo¹ include the licensure, supervision, and discipline of insurance producers.

2. The Consumer Affairs Division of the Department (the “Division”) has the duty of conducting investigations into the qualifications of insurance producer license applicants and has been authorized by the Director to initiate actions before the Director to enforce the

¹ All civil statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes.

insurance laws of Missouri, including insurance producer license application refusal.

3. On October 9, 2001, Applicant Kristopher Patrick Herbst ("Herbst") pled guilty to, and was convicted of, Possession With Intent to Distribute LSD, a felony, in violation of 21 U.S.C. § 841(a)(1);² the court sentenced him to ten years' incarceration. *United States v. Kristopher Patrick Herbst*, U.S. Dist. Ct., S.D. Ga., Case No. CR401-00126-003 ("*Herbst I*").

4. On October 23, 2001, Herbst pled guilty to, and was convicted of, Firing of Woodlands, Brush Etc., a felony, in violation of GA. CODE § 16-7-63; the court sentenced him to ten years' incarceration, but suspended execution of the sentence pending Herbst's completion of his sentence in *Herbst I. Georgia v. Kristopher Herbst*, Chatham Co. Super. Ct., Case No. CR01-1039-AB ("*Herbst II*")

5. On April 18, 2002, Herbst pled guilty to, and was convicted of, Receiving a Firearm While Under Indictment, a felony, in violation of 18 U.S.C. § 922(n); the court sentenced him to thirty months' incarceration, to be served concurrently with the sentence it had imposed in *Herbst I. United States v. Kristopher Patrick Herbst*, U.S. Dist. Ct., S.D. Ga., Case No. CR401-00300-001 ("*Herbst III*").

6. On September 18, 2017, the Department received Herbst's Uniform Application for Individual Producer License/Registration ("Application").

7. Herbst disclosed his convictions from *Herbst I*, *Herbst II*, and *Herbst III* on the Application, as required.

8. Herbst understands and agrees that pursuant to § 375.141.1(6) the Director may refuse to issue Herbst a resident insurance producer license because he has been convicted of felonies.

² All criminal statutory references are to those contained in the version of the statute pursuant to which each judgment was rendered.

9. Herbst understands and agrees that each of his felony convictions is a separate and sufficient ground for refusal of his Application pursuant to § 375.141.1(6).

10. Herbst stipulates and agrees to waive any waivable rights that he 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 Division, the Director, and her agents from all liability and claims arising out of, pertaining to, or relating to this matter.

11. Herbst acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other jurisdictions. Herbst further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications in this state and elsewhere, and that it is his responsibility to comply with the reporting requirements of each jurisdiction in which he may be licensed.

12. All signatories to this Consent Order certify by signing that they are fully authorized, in their own capacities, or by the named parties they represent, to accept the terms and provisions of this Consent Order in their entirety and agree, in their personal or representative capacities, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

13. 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:

* * *

(6) Having been convicted of a felony[.]

14. The foregoing facts hereby admitted by Herbst constitute cause for the Director to refuse his Application pursuant to § 375.141.1(6).

15. 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.

16. 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.

ORDER

IT IS ORDERED that the Department will issue a resident insurance producer license to Kristopher Patrick Herbst, subject to the conditions set forth herein and the following special conditions:

1. Kristopher Patrick Herbst shall respond to all inquiries from the Consumer Affairs Division in accordance with 20 CSR 100-4.100.
2. If a consumer complaint is communicated directly to Kristopher Patrick Herbst, he shall send the Consumer Affairs Division a copy of the complaint and a copy of his response to the consumer within five (5) business days of receipt of the consumer complaint.
3. Kristopher Patrick Herbst shall report to the Consumer Affairs Division any administrative action initiated against him by any other state or federal governmental agency in Missouri or any other jurisdiction within five (5) business days after Herbst receives notification of the initiation of such administrative action.
4. Kristopher Patrick Herbst shall report to the Consumer Affairs Division any of the following incidents involving him: the first court hearing or appearance in any criminal proceeding, guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction for a felony or misdemeanor. Kristopher Patrick Herbst shall report all such incidents to the Consumer Affairs Division within five (5) business days of their occurrence.
5. Kristopher Patrick Herbst shall voluntarily surrender his resident insurance

producer license to the Department within five (5) business days of any of the following incidents involving him: guilty plea, *Alford* plea, nolo contendere plea, finding of guilt, or conviction for a felony or crime involving moral turpitude, regardless of whether any associated sentence is suspended or executed.

6. The special conditions listed in the immediately preceding five (5) paragraphs shall expire upon the expiration, lapse, termination, revocation, or renewal of Kristopher Patrick Herbst's resident insurance producer license, whichever occurs first.

IT IS FURTHER ORDERED that if Kristopher Patrick Herbst fully complies with the terms and conditions of this Consent Order, he may apply to renew his resident insurance producer license and the Director shall consider any renewal application in accordance with Chapters 374 and 375, but without regard to the prosecutions known as *Herbst I*, *Herbst II*, *Herbst III*, or his underlying conduct in any of those cases.

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

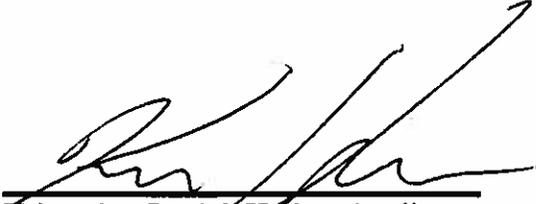
SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 3rd DAY OF January, 2018.



Chlora Lindley-Myers
CHLORA LINDLEY-MYERS, Director
Missouri Department of Insurance, Financial
Institutions and Professional Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Kristopher Patrick Herbst has the right to a hearing, but that Kristopher Patrick Herbst has waived the hearing and agreed to the issuance of this Consent Order.



Kristopher Patrick Herbst, Applicant
8237 Madison Avenue
Kansas City, Missouri 64114-2233

12/22/17

Date

Counsel for Applicant

Missouri Bar #: _____

Address: _____

Telephone: _____

Facsimile: _____

E-mail: _____

Date



Mark J. Rachel, Missouri Bar #66167
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
Mark.Rachel@insurance.mo.gov

2 January 2018

Date