



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

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

In the Matter of:

SHARON K. MIDGETT

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Case No. 13-0621371C

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 legal counsel Cheryl C. Nield, and Sharon K. Midgett, 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 381, RSMo,¹ include the supervision, regulation and discipline of insurance producers.

¹ All statutory references are to the 2013 Supplement to the Revised Statutes of Missouri unless otherwise noted.

2. The Department's Consumer Affairs Division ("Division") 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 investigate and initiate actions before the Director to enforce the insurance laws of this state, including insurance producer application refusal.

3. The Department first issued Sharon K. Midgett ("Midgett") a resident insurance producer license on December 9, 2004. Following several renewals, Midgett's license expired on December 9, 2012.

4. The Division received a Consumer Complaint ("Complaint") from Kelly Planzo, President of K&P Executive Investments, Inc. ("K&P"), on January 26, 2012, alleging that Midgett closed a title transaction without having the lender, K&P, and the buyer both sign the Promissory Note at closing.

5. On or about January 31, 2012, Investigative Consultant Kathleen Jolly ("Jolly") sent a letter by first class mail to Midgett's residential address asking Midgett to respond to the Complaint and provide information. The letter requested a response by February 22, 2012. The first class mail was not returned to the Department as undeliverable. Midgett did not respond with the requested information and did not contact the Department in any other way to demonstrate a reasonable justification for a delayed response.

6. On or about March 6, 2012, Jolly sent another letter, this time by certified mail from the United States Post Office, to Midgett's residential address asking Midgett to respond to the Complaint and provide information. The letter requested a response by

March 28, 2012. Midgett signed the postal "green card" for the letter, indicating her receipt. But Midgett did not respond with the requested information and did not contact the Department in any other way to demonstrate a reasonable justification for a delayed response.

7. The Department personally served a Subpoena dated April 6, 2012, to Midgett, ordering her to appear at the Department before the Director on April 24, 2012.

8. On April 23, 2012, Midgett contacted Jolly by phone and asked that the April 24, 2012 Subpoena Conference be rescheduled. Jolly agreed to do so.

9. The Department rescheduled the April 24, 2012 Subpoena Conference, at Midgett's behest, and sent a Subpoena to her for the new date, June 19, 2012.

10. Neither Midgett nor anyone on her behalf appeared at the rescheduled Subpoena Conference on June 19, 2012 at the Department's offices.

11. On or about June 28, 2012, Jolly sent a letter by first class mail to Midgett's residential address. In this letter, Jolly questioned Midgett's failure to appear at the June 19, 2012 Subpoena Conference, and informed Midgett that her failure to appear and evidence obtained in the investigation of the aforementioned Complaint "supports discipline" of Midgett's producer license. Jolly requested a response by July 20, 2012. The first class mail was not returned to the Department as undeliverable. Midgett did not respond with the requested information and did not contact the Department in any other way to demonstrate a reasonable justification for a delayed response.

12. On or about February 5, 2013, the Department received a letter from Midgett requesting the renewal of her resident producer license ("Renewal"). Midgett

paid the applicable late fees to renew her license but she did not have the necessary title continuing education hours at the time she sought to renew. To date, that title continuing education requirement (8 hours) has not been met.

13. The Department served a Subpoena to Midgett by certified mail, ordering her to appear at the Department before the Director on March 20, 2013.

14. Midgett appeared at the Department on March 20, 2013, pursuant to the Subpoena and testified under oath.

15. During the March 20, 2013 Subpoena Conference, Midgett acknowledged that she closed the real estate transaction referenced in the Department's Subpoena. Midgett also testified that she never responded in writing to either of the Division's January 31, 2012 or March 6, 2012 letters and that she failed to appear at the 2012 Subpoena Conference on the appointed date.

16. Midgett acknowledges and understands that under § 375.141.1(2), the Director may refuse to renew Midgett's insurance producer license because she violated a Missouri regulation, to wit: Title 20 CSR 100-4.100(2)(A), in that Midgett failed to provide an adequate response to the Division's January 31, 2012 and March 6, 2012 letters or demonstrate a reasonable justification for her delayed response.

17. Midgett acknowledges and understands that under § 375.141.1(2), the Director may refuse to renew Midgett's insurance producer license because she failed to appear at the June 19, 2012 Subpoena Conference as ordered by the Director.

18. On or about October 15, 2013, counsel for the Division sent documentation to Midgett which described the specific conduct for which discipline was sought and

citation to the law and rules allegedly violated, along with documents which were the basis thereof. Midgett was advised that she had 60 days to review the investigation report and consider the proposed settlement offer. On March 31, 2014 and after Midgett had obtained representation, counsel for the Division sent additional documents to Midgett's counsel that provided further basis for the specific conduct for which discipline was sought.

19. Midgett acknowledges and understands that she has the right to consult counsel at her own expense. She is now represented by John T. Coghlan with Lathrop & Gage.

20. Midgett acknowledges and understands that she has been advised that she may, either at the time the settlement agreement is signed by all parties, or within 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 Midgett's license.

21. Except as provided in Paragraph 20 above, Midgett stipulates and agrees to waive any waivable rights that she 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 Director and his agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

22. Midgett acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Midgett

further acknowledges and understands that this administrative action should be disclosed on future license applications and renewal applications in this state and in other jurisdictions and that it is her responsibility to comply with the reporting requirements of each state in which she may be licensed.

23. 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

24. The facts admitted by Midgett are grounds to refuse to renew her Missouri insurance producer license application pursuant to § 375.141.1(2).

25. Section 375.141.1 states, in part, as follows:

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[.]

26. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An

envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

27. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206, 209 (Mo. App. S.D. 1990).

28. The Director may impose orders in the public interest under § 374.046.

29. 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 renew Midgett's insurance producer license subject to the conditions set forth herein:

1. Midgett shall provide in writing to the Division all current phone numbers, including resident and cell phone numbers, an email address, and a mailing address, none of which may be associated with Midgett's employer.

2. Midgett shall inform the Division in writing of any change to all current phone numbers, including resident and cell phone numbers, an email address, and a mailing address, none of which may be associated with Midgett's employer.

3. Midgett shall inform the Division in writing of any change in job title or employer within five business days of the change.

4. Midgett shall report to the Division any violation of or failure to comply with the laws and regulations set forth in Chapters 374, 375, and 381 within five business days of such violation or failure to comply.

5. Midgett shall respond to all inquiries from the Department in accordance with 20 CSR 100-4.100(2)(A).

6. If a consumer complaint is communicated directly to Midgett, Midgett shall send the Department a copy of the complaint and a copy of Midgett's response to the consumer within five business days of the receipt of the consumer complaint.

7. Midgett shall report to the Division any administrative action taken against Midgett by any other state or federal governmental agency in Missouri or other jurisdiction within five business days of the final disposition of such administrative action.

8. The special conditions listed in paragraphs 1 through 7, above, will expire five years from the date this Consent Order is issued.

IT IS FURTHER ORDERED that Midgett shall complete the eight (8) hours of title continuing education required in order to renew her producer license for title. The Director, by this Consent Order, grants Midgett an extension of time to complete the eight (8) hours of required title continuing education until December 1, 2014. No further extensions of time will be granted. Midgett, by signing this Consent Order, acknowledges and understands that if she does not complete the necessary eight (8) hours of title continuing education by December 1, 2014, the Director will not renew her license and all provisions of this Consent Order will be null, void, and of no effect. If,

and only if, Midgett completes the eight (8) hours of title continuing education by December 1, 2014, will the Director then renew her producer license for title pursuant to this Consent Order. If Midgett reports her title continuing education hours by mail, she shall send them marked "Personal and Confidential" to the attention of Brenda Otto, Manager, Licensing Section, at the Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri, 65102.

IT IS FURTHER ORDERED that Midgett will file a renewal application and any and all necessary fees with the Department on or before December 1, 2014. Midgett acknowledges and understands that, assuming that her license is renewed under the provisions of this Consent Order, her renewed license will nonetheless expire on December 9, 2014, as the license expiration date occurs two years from the date that her license was last effective, *i.e.*, December 9, 2012. If Midgett files a paper renewal application or any correspondence relative to her renewal, she shall send it marked "Personal and Confidential" to the attention of Brenda Otto, Manager, Licensing Section, at the Missouri Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, Missouri, 65102.

IT IS FURTHER ORDERED that the Director, by the terms of this Consent Order, shall waive any and all continuing education requirements that would be otherwise associated with the renewal application that Midgett must file, pursuant to this Consent Order, on or before December 1, 2014, in order for her license to be effective through December 9, 2016.

IT IS FURTHER ORDERED that Midgett shall pay the total amount of one thousand dollars (\$1,000.00) as a forfeiture as authorized by § 374.046.15, and pursuant to §§ 374.280 and 375.145, payable to the State School Moneys Fund for the above-described violations.

IT IS FURTHER ORDERED that such payment shall be due immediately and payable by money order or cashier's check to the State School Moneys Fund, and shall be forwarded with this executed Consent Order to the attention of Cheryl C. Nield, 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 Order. The Director shall forward these funds to the state treasury for the benefit of school fund as provided in §§ 374.049.11 and 374.280.2, and Article IX, Section 7 of the Constitution of Missouri.

IT IS FURTHER ORDERED that if Midgett completes eight (8) hours of title continuing education before December 1, 2014, obtains a renewal of her license, applies to renew again by December 1, 2014 and thus maintains her insurance producer license until December 9, 2016, and otherwise complies with the terms of this Consent Order, then Midgett may apply again to renew her license in 2016 and the Director shall consider the renewal application in accordance with Chapters 374 and 375 without regard to the underlying conduct outlined in this Consent Order.

IT IS FURTHER ORDERED that if Midgett violates or otherwise fails to comply with the terms and conditions of this Consent Order, the Director may pursue additional

legal remedies, as necessary and without limitation, as authorized by Chapters 374, 375, and 381 RSMo.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 13TH
DAY OF NOVEMBER, 2014.



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



Sharon K. Midgett
1201 Twill Ct.
St. Louis, MO 63137



Date



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Date