

**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

FILED
DEC 04 2012
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner,)	
 Petitioner,)	
)	
v.)	Case No. 12-0829-DIS
)	
KENNETH ARTHUR PARKER,)	
 Respondent.)	

ORDER DENYING LICENSURE

This matter is a denial proceeding under the Oklahoma Producer Licensing Act. 36 O.S. §§ 1435.1 et seq. The Oklahoma Insurance Department notified Respondent on September 13, 2012 that his application for reinstatement of his insurance producer license was denied for providing incorrect, misleading, incomplete or materially untrue information in his Oklahoma license application and for having his insurance producer license revoked in the State of Missouri. 36 O.S. §§ 1435.13(A)(1) and (9). Respondent requested a formal administrative hearing before an independent hearing examiner concerning the matter on September 24, 2012.

The hearing was held before the undersigned Hearing Examiner on November 14, 2012. Petitioner appeared by counsel Julie Meaders. Respondent appeared without counsel. Witnesses were sworn and testified, exhibits were presented and argument of counsel heard.

JURISDICTION

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq.

2. Respondent was formerly licensed as a nonresident insurance producer holding license 40065795. His license lapsed on October 31, 2010. His address of record with the Oklahoma Insurance Department is 411 North Monroe, Blanchard, Oklahoma 73010.

3. The Insurance Commissioner, pursuant to 36 O.S. § 319, may appoint an independent hearing examiner who shall sit as a quasi-judicial officer.

FINDINGS OF FACT

1. Respondent made application for reinstatement of his producer license in the State of Oklahoma by submitting an online application to the Licensing Division of the Oklahoma Insurance Department on September 11, 2012. He listed his address of record as 411 N. Monroe, Blanchard, Oklahoma 73010.

2. The application asked whether the applicant had ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license. Respondent answered this question "no".

3. A background check by the Licensing Division revealed a Consent Order between Respondent and the State of Missouri dated May 15, 2011 in which Respondent agreed to the revocation of his Missouri resident license for violation of Missouri law and rules (Exhibit "A").

4. Respondent's license reinstatement was denied based on this information. Respondent thereafter requested an administrative hearing regarding the denial of his license.

5. The hearing was held on November 14, 2012.

6. The Insurance Commissioner appointed Leamon Freeman to hear the case as the Independent Hearing Examiner.

7. The hearing was recorded electronically by employees of the Oklahoma Insurance Department. Neither party requested a full stenographic record of the proceedings.

8. The following exhibits were introduced and admitted:

Petitioner's Exhibit A: Respondent's 2012 reinstatement application for producer license;

Petitioner's Exhibit B: NAIC Regulatory Action Summary for Kenneth Parker;

Petitioner's Exhibit C: Consent Order between State of Missouri and Kenneth Parker revoking his Missouri license;

Petitioner's Exhibit D: FINRA BrokerCheck Report for Kenneth Parker;

Petitioner's Exhibit E: State Based Systems (SBS) Licensee Profile.

Respondent's Exhibit 1: Respondent's Opening Statement.

9. Respondent and Licensing Supervisor Brandon Cain were sworn and testified under oath.
10. The Hearing Examiner heard testimony and entered the following findings of fact:
 - a. Evidence was admitted and testimony was presented that applicants are required to disclose if they have been named or involved as a party in an administrative proceeding regarding any professional or occupational license.
 - b. Respondent testified that he did not give true answers to questions two and five on his Oklahoma reinstatement application.
 - c. Evidence was admitted that Respondent provided incorrect and misleading information in the 2012 license reinstatement by failing to disclose the administrative action in Missouri.
 - d. Evidence was admitted and testimony was presented that the Consent Order signed and agreed to by Respondent and the State of Missouri was a valid Consent Agreement revoking Respondent's Missouri producer license.

CONCLUSIONS OF LAW

Respondent violated 36 O.S. § 1435.13(A)(1), by providing incorrect, misleading and incomplete information in his license application. Respondent violated 36 O.S. § 1435.13(A)(2), by violating the insurance laws of Missouri. Respondent violated 36 O.S. § 1435.13(A)(9) by having his insurance producer license revoked in the State of Missouri.

ORDER

BASED UPON THE FOREGOING, IT IS HEREBY ORDERED THAT THE DENIAL OF THE REINSTATEMENT APPLICATION OF KENNETH PARKER BY THE OKLAHOMA INSURANCE DEPARTMENT IS AFFIRMED.

Done this 28th day of November, 2012.



A handwritten signature in blue ink that reads "Leamon Freeman".

LEAMON FREEMAN
Hearing Examiner
Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112

CERTIFICATE OF SERVICE

I, Julie Meaders, hereby certify that on the 4th day of December, 2012, a copy of this Final Order was sent by certified mail, return receipt requested, to:

Kenneth Parker
411 N. Monroe
Blanchard, OK 73010

CERTIFIED MAIL NO: 7006 2760 0005 6606 2599

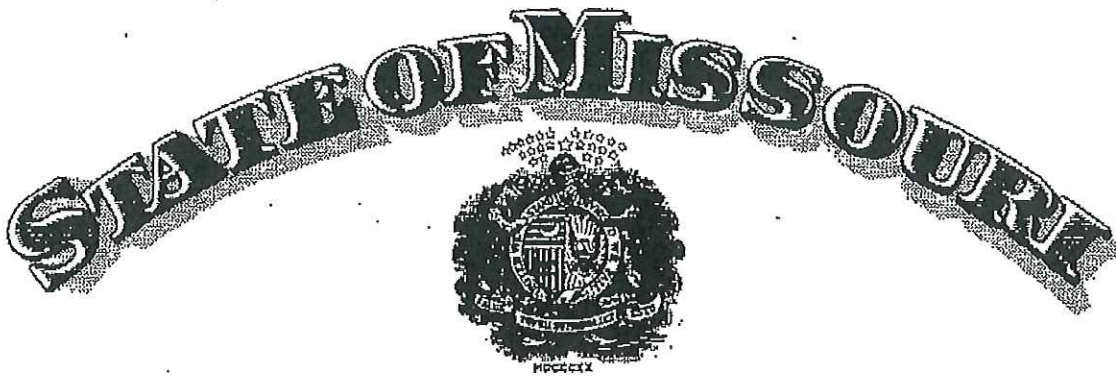
A copy was sent to:

NAIC/RIRS
All appointing insurers

And a copy was delivered to:

Licensing Division


Julie Meaders



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

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

In the Matter of:

KENNETH A. PARKER,

Respondent.

)
)
)
)
)

Case No. 10-1218753C

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration takes up the above-referenced matter for consideration and disposition. The Consumer Affairs Division, through counsel, Kristen E. Paulsmeyer, and Respondent Kenneth A. Parker have reached a settlement in this matter and Respondent has consented to the issuance of this Consent Order.

Findings of Fact

1. John M. Huff is the duly appointed 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 Consumer Affairs Division of the Department 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 initiate this action before the Director to enforce the insurance laws of this state.

3. The Department originally issued Respondent Kenneth A. Parker ("Parker") an insurance producer license (No. 0348198) on February 17, 2005. The license expired on February 17, 2011.

4. The Consumer Affairs Division seeks to discipline Respondent Parker's insurance producer license and alleges the following regarding Respondent Parker:

- a. The Department issued a subpoena duces tecum to Respondent Parker, pursuant to which Respondent Parker appeared at the Department and testified under oath on October 14, 2010 (the "Subpoena Conference").
- b. At the Subpoena Conference, Respondent Parker admitted Toba Hoffner purchased ten annuity contracts and one life insurance policy directly from him as an insurance producer.
- c. At the Subpoena Conference, Respondent Parker admitted that he entered into a Promissory Note on February 22, 2008 in which he

promised to pay Toba Hoffner the total principal sum of \$293,000 with interest at San Carlos, California.

- d. Toba Hoffner registered a California March 5, 2009 default judgment against Parker based on the Promissory Note on or about April 29, 2009 in Jackson County Circuit Court, Missouri. Marin County Superior Court, California, *Toba Hoffner v. Kenneth A. Parker*, Case No. CIV 084704.
- e. On or about April 29, 2009, the Jackson County Circuit Court entered a judgment for Plaintiff Toba Hoffner and against Defendant Parker for damages in the amount of \$280,130, prejudgment interest in the amount of \$20,760, attorney fees in the amount of \$5,360, and costs in the amount of \$828 for a total amount of \$307,078. *Toba Hoffner v. Kenneth A. Parker*, Case No. 0916-CV13285.

5. In light of these facts, Respondent Parker's insurance producer license is subject to discipline on the following grounds:

- a. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere pursuant to § 375.141.1(8) RSMo (Supp. 2010).¹
- b. Obtaining or soliciting for a loan from an insurance client which is a violation of 20 CSR 700-1.140(3) which is grounds for discipline pursuant to § 375.141.1(2).

¹ All statutory references are to RSMo (Supp. 2010) unless otherwise indicated.

c. By engaging in any act, practice, or course of business which operated as a fraud or deceit upon any person in violation of § 375.144(4) which is grounds for discipline pursuant to § 375.141.1(2).

6. Section 375.141 provides, in relevant 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;

* * *

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

7. Section 375.144 states, in relevant part:

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

* * *

(4) Engage in any act, practice, or course of business which operates as a fraud or deceit upon any person.

8. Title 20 CSR 700-1.140(3) states, in part:

(3) No insurance producer shall obtain or solicit for a loan from an insurance client or former or prospective insurance client or any type of ownership interest in any insurance policy held by an insurance client or former or prospective insurance client. This prohibition shall not apply--

* * *

(B) When there exists a relationship between the insurance client or former or prospective insurance client and the insurance producer which gives rise to an insurable interest.

9. On or about March 21, 2011, counsel for the Consumer Affairs Division sent to Respondent Parker a settlement offer with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of documents which are the basis thereof. Counsel for the Consumer Affairs Division advised Respondent Parker that he had sixty (60) days to review the materials provided and consider the proposed settlement offer.

10. Respondent Parker acknowledges that he has been advised that he may, either at the time the settlement agreement is signed by the parties or within fifteen (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 Respondent's license.

11. Respondent Parker admits to the facts alleged by the Consumer Affairs Division and outlined in this Consent Order. Respondent agrees that these facts constitute grounds to discipline his insurance producer license.

12. Respondent Parker further acknowledges that he understands he has the right to consult an attorney at his own expense.

13. Except as agreed to and provided in Paragraph 10, Respondent Parker stipulates and agrees to waive any rights that he may have to a hearing before the Administrative Hearing Commission, the Director or Department, and any rights to

seek judicial review or other challenge or contest the terms and conditions of this Order and forever releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from any and all liability and claims arising out of, pertaining to or relating to this matter.

14. 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

16. The allegations raised by the Consumer Affairs Division are grounds to discipline Respondent Parker's Missouri insurance producer license pursuant to §§ 375.141.1(2) and (8).

17. The Consumer Affairs Division is authorized to settle this matter and the Director is authorized to issue this Consent Order in the public interest pursuant to § 621.045 RSMo and § 536.060 RSMo (2000).

18. 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 Respondent Kenneth A. Parker's insurance producer license (No. 0343198) is hereby revoked.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 13th DAY OF MAY, 2011.



A handwritten signature in black ink, appearing to read "John M. Huff", written over a horizontal line.

JOHN M. HUFF; Director
Missouri Department of Insurance,
Financial Institutions & Professional
Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondent Kenneth A. Parker has a right to a hearing, but that Respondent waived the hearing and consented to the issuance of this Consent Order.

Kenneth A. Parker

Kenneth A. Parker
4206 NE Newbury Ct.
Lee's Summit, MO 64064
Telephone: (816) 373-1566
Telephone: (702) 592-4133

5/9/11
Date

Respondent

- N/A -

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

- N/A -
Date

Kristen E. Paulsmeyer

Kristen E. Paulsmeyer
Counsel for Consumer Affairs Division
Missouri Bar No. 56458
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

5/11/11
Date