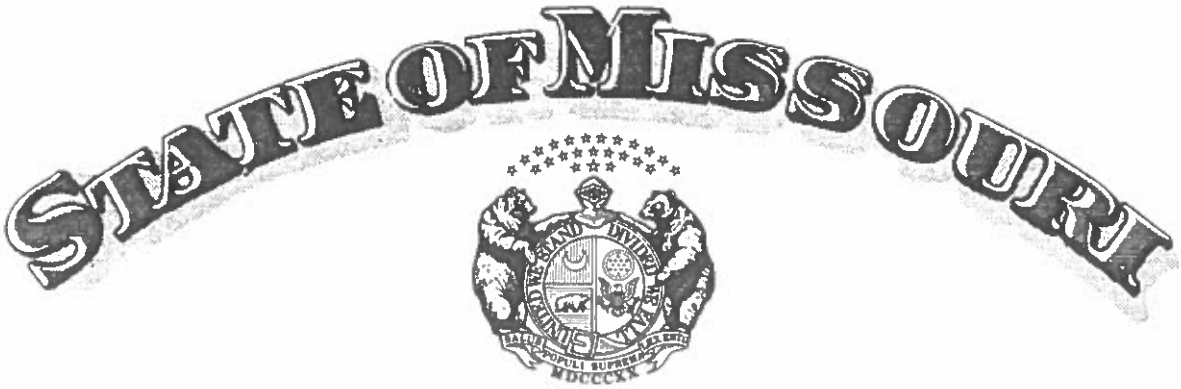

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

IN RE:	)	
	)	**DIFP Case No. 130905520C**
CHAD ERIC MORELAND,	)	
	)	**AHC Case No. 14-1410 DI**
Respondent.	)	

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 of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Director" of the "Department") whose duties, pursuant to Chapters 374 and 375, RSMo (Supp. 2013)[1] include the supervision, regulation, and discipline of insurance producers in the State of Missouri.

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1 All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

2. On June 8, 2004, the Department issued to Respondent Chad Eric Moreland ("Moreland") a non-resident insurance producer license, number 0330536.

3. Moreland's non-resident insurance producer license expired on June 8, 2014.

4. On August 22, 2014, the Director filed a Complaint with the Missouri Administrative Hearing Commission ("AHC") pursuant to § 621.045, by which he sought the AHC's findings of fact and conclusions of law that cause exists to discipline Moreland's license.

5. Before September 2, 2014, the AHC served Moreland with a copy of the Director's Complaint, but neither Moreland nor anyone on his behalf filed an answer or other responsive pleading.

6. On January 15, 2015, the Director filed a Motion for Summary Decision. The AHC allowed Moreland until January 30, 2015 to file a response, but he filed nothing.

7. On April 28, 2015, the AHC issued its Decision finding cause to discipline Moreland's license pursuant to § 375.141.1(2), (7), (8), and (9). *Dir., Dep't of Ins., Fin. Insts. & Prof'l Regis'n v. Chad Eric Moreland*, No. 14-1410 DI (Mo. Admin. Hrg. Comm'n, Apr. 28, 2015).

8. In its Decision, the AHC found the following facts:

a. Farmers Insurance Exchange, Farmers Insurance Company, Inc., Farmers New World Life, Mid Century Insurance Exchange, Truck Insurance Exchange, Fire Insurance Exchange, and Bristol West Insurance Company (collectively "Farmers") had appointed Moreland to act as an insurance producer on their behalf.

b. Moreland manipulated Farmers' policy and billing systems from 2005

through 2013 to provide insurance coverage for his household by submitting five homeowner insurance policies through Farmers that he subsequently modified and reinstated, or rewrote, with only partial premium remittance or payments that were later voided. This caused Farmers to provide insurance coverage for Moreland's property or commission payments based upon false statements and untrue representations. The manipulation occurred almost the entire time Moreland was appointed by Farmers.

c. Moreland manipulated Farmers' policy and billing systems from 2005 through 2013 to provide insurance coverage for three automobiles by submitting 23 automobile insurance policies through Farmers that he subsequently modified and reinstated, or rewrote, with only partial premium remittance or payments that were later voided. This caused Farmers to provide insurance coverage for Moreland's property or commission payments based on false statements or representations.

d. Moreland submitted 42 fictitious homeowner insurance policy applications from 2008 through 2012 to obtain short-term commission gains or payments from Farmers. The policies included false statements or information causing Farmers to believe the applications for the policies were genuine and to pay Moreland approximately $33,095.00 in commission payments as a result.

e. Moreland's manipulation of Farmers' policy and billing systems and submission of fictitious policies were done in connection with the offer,

sale, solicitation, or negotiation of insurance because the contracts were negotiated with Farmers, a group of affiliated insurance companies, and were insurance policies.

f. On October 9, 2012, the Commissioner of Insurance of the State of Kansas issued a summary order revoking Moreland's resident insurance agent's license, which became effective as a final order on October 24, 2012.

g. Moreland failed to report the Kansas revocation order to the Department within 30 days.

h. The Commissioner of Insurance of the State of Kansas had found that Moreland converted insurance contracts to his own use without paying premiums, submitted insurance policy applications that falsely represented that a consumer, whether real or fictitious, was applying in good faith for insurance, submitted applications for insurance policies that contained materially false information, and manipulated his personal insurance business to obtain value from Farmers without payment, all in violation of K.S.A. §§ 40-4909(a)(4), (7), and (8) and 40-2404(11).

i. On July 23, 2013, a Special Investigator for the Department sent Moreland an inquiry letter requesting a detailed letter of explanation about his terminated appointment with Farmers, advising him that a response was due within twenty days and that disciplinary action could result if none was rendered. Though the inquiry letter was not returned to the Department as undeliverable, Moreland did not respond.

Id.

9. Based on the foregoing factual findings, the AHC found cause to discipline Moreland's license pursuant to:

a. Section 375.141.1(2) because Moreland failed to report the revocation of his Kansas insurance agent's license to the Director as required by § 375.141.6;

b. Section 375.141.1(2) because Moreland failed to respond to the Department's inquiry letter as required by 20 CSR 100-4.100(2)(A);

c. Section 375.141.1(2) because Moreland engaged in a pattern or practice of making false statements of material fact in violation of § 375.144(3);

d. Section 375.141.1(2) because Moreland engaged in a business practice or course of business which operated as fraud or deceit upon Farmers in violation of § 375.144(4);

e. Section 375.141.1(2) because Moreland engaged in an unfair trade practice in violation of § 375.936;

f. Section 375.141.1(7) because Moreland committed an insurance unfair trade practice or fraud;

g. Section 375.141.1(8) because Moreland used fraudulent or dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of his insurance business; and

h. Section 375.141.1(9) because Moreland's Kansas insurance agent's license had been revoked.

Id.

10. On June 4, 2015, the AHC certified the record of its proceeding to the Director

pursuant to § 621.110.

11. On June 15, 2015, the Department sent Moreland a Notice of Hearing by United States Postal Service ("U.S.P.S.") Certified Mail, to 5833 Noreston Street, Shawnee, Kansas 66218, which had been Moreland's address of record before the AHC. The U.S.P.S. return receipt, Form 3811, which was received by the Department on June 22, 2015, indicates Moreland signed for the mailing on June 17, 2015.

12. On June 15, 2015, the Department sent Moreland an additional copy of the Notice of Hearing by U.S.P.S. first-class mail, postage prepaid, to the same address. The U.S.P.S. did not return that mailing to the Department as undeliverable.

13. On July 14, 2015, the Director, through his Hearing Officer Cheryl C. Nield, convened a Disciplinary Hearing to determine the appropriate disciplinary action, if any, to be taken against Moreland's non-resident insurance producer license subsequent to the AHC's Decision. *Disciplinary Hearing Transcript ("Tr.")* at 1 – 2. Neither Moreland nor anyone on his behalf appeared; however, Mark J. Rachel appeared on behalf of the Department's Consumer Affairs Division ("Division"). *Id.* at 2 – 3.

14. At the Disciplinary Hearing, the Hearing Officer admitted the AHC's certified record of its proceeding into evidence as Exhibit 1, and a copy of the Notice of Hearing sent to Moreland and related mail tracking information as Exhibit 2. *Id.* at 4 – 6.

15. At the Disciplinary Hearing, the Division recommended revocation of Moreland's non-resident insurance producer license. *Id.* at 4, 7.

16. The Director hereby incorporates the AHC's April 28, 2015 Decision referenced herein and finds in accordance with the same. *Dir., Dep't of Ins., Fin. Insts. & Prof'l Regis'n v. Chad Eric Moreland*, No. 14-1410 DI (Mo. Admin. Hrg. Comm'n, Apr. 28,

2015).

CONCLUSIONS OF LAW

17. 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:
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> * * *
>
> (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;
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere; [or]
>
> (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.
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> * * *
>
> 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.

18. Section 375.144 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; or

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

19. Section 375.936(7) provides, in relevant part:

"Misrepresentation in insurance applications" [means] 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[.]

20. Section 375.934 provides, in relevant part:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if ... [i]t has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

21. Title 20 CSR 100-4.100(2)(A) 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.

22. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000).

23. Fraud may be reasonably and fairly inferred from circumstantial evidence. *Essex v. Getty Oil Co.*, 661 S.W.2d 544, 551 (Mo. App. W.D. 1983).

24. Section 621.110 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 and within one hundred twenty days of the date the case became ready for decision, 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. ... 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.

25. Accordingly, "in the case of discipline imposed upon an existing license, the relevant statutes establish a bifurcated procedure, under which the AHC finds the predicate facts as to whether cause exists to discipline a license, and the [Director] then exercises final decisionmaking 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) (citing § 621.110).

26. Section 621.110 authorizes the Director to receive evidence relevant to the appropriate disciplinary action from Moreland or any other source, including the Division.

27. The Director has the discretion to discipline Moreland's license, including the discretion to revoke that license. Sections 374.051.2, 375.141.1, and 621.110.

28. The expiration of Moreland's license does not frustrate the Director's authority to impose discipline. Section 375.141.4.

29. "The principal purpose of § 375.141 is not to punish licensees or applicants,

but to protect the public." *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984). "Missouri courts have consistently held that 'the purpose behind licensing statutes is to protect the public rather than to punish the licensed professional.'" *Garozzo v. Mo. Dep't of Ins., Fin. Insts. & Prof'l Regis'n*, 389 S.W.3d 660, 665 (Mo. banc 2013) (internal citation omitted).

30. Considering the AHC's findings of causes for discipline, the prolonged and deliberate nature of the conduct involved, and Moreland's refusal to engage with the State's proceedings, revocation of Moreland's expired, non-resident insurance producer license pursuant to § 375.141.1(2), (7), (8), and (9) is appropriate.

31. This Order is in the public interest.

ORDER

Based on the evidence presented and the foregoing findings and conclusions, the expired, non-resident insurance producer license of **Chad Eric Moreland**, number 0330536, is hereby **REVOKED**.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 22ND **DAY OF** SEPTEMBER**, 2015.**

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

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 2015, a copy of the foregoing Findings of Fact, Conclusions of Law, and Order of Discipline was served upon the Respondent in this matter by UPS, signature required service, at the following addresses:

Chad Eric Moreland
5833 Noreston Street
Shawnee, KS 66218

Tracking No. 1Z0R15W84299101228

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