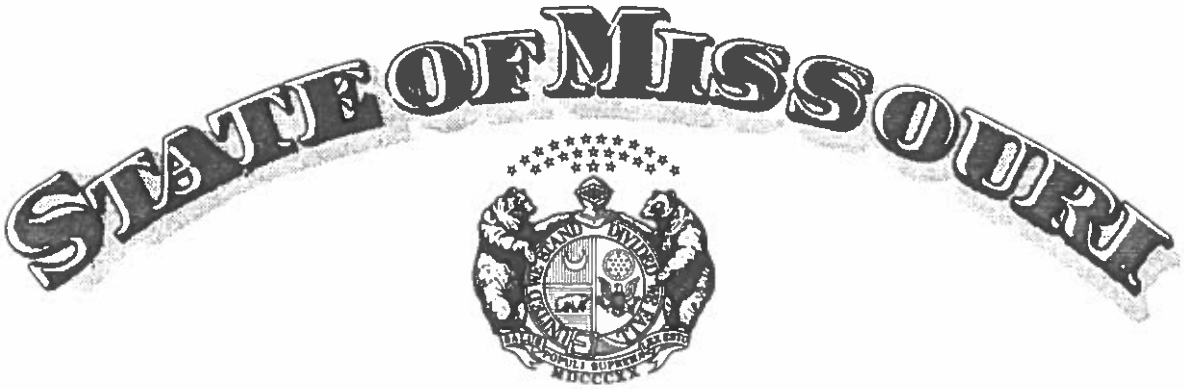

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re:	)	
	)	
CARLOS A. FUSHIMI,	)	**Case No. 131113585C**
	)	
Respondent.	)	

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, Tammy S. Kearns, and Respondent Carlos A. Fushimi 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 ("Department") whose duties, pursuant to Chapters 374 and 375 RSMo,[1] include supervision, regulation, and discipline of insurance producers.

[1] All civil statutory references are to the Revised Statues of Missouri (2000) as updated by the 2013 Supplement unless otherwise noted.

2. The Consumer Affairs Division ("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 issued Carlos A. Fushimi ("Fushimi") an individual resident insurance producer license (License No. 8047434) on April 27, 2010, which was renewed on April 28, 2012, and expired on April 27, 2014.

4. Fushimi owned and did business as Carlos Fushimi Agency, LLC ("Fushimi Agency").

5. Shannon Rivera ("Rivera") was Fushimi's office manager at Fushimi Agency.

6. Rivera was not licensed as an insurance producer.

7. David Wright ("Wright") received a call from a Farmers agent and he provided information to the agent for a quote on an auto policy but did not purchase an auto policy and did not make payments on an auto policy.

8. Fushimi testified under oath at a subpoena conference that he prepared a quote for Wright, but that Wright never agreed to purchase an auto policy from him, that Fushimi never met Wright, and that Wright never signed any documentation to initiate an auto policy.

9. However, Rivera established an auto policy on September 20, 2012 that listed Wright as the insured and Fushimi as the agent. Said auto policy listed Rivera's home address as Wright's billing address.

10. In addition, Rivera used Fushimi Agency's business bank account to make the initial installment payment of $35.16 due on Wright's auto policy.

11. Fushimi acknowledges that he is responsible for the actions of his employees who are not licensed insurance producers.

12. In light of these facts, Fushimi's expired individual resident insurance producer license is subject to discipline pursuant to:

a. Section 375.141.1(2) because Fushimi violated a Missouri insurance law, namely § 375.144(4), when Fushimi engaged in an act, practice or course of business which operated as a fraud or deceit in connection with the offer, sale, solicitation or negotiation of insurance when he, either personally or through his employees, submitted an application for an insurance policy without the knowledge of the policy owner, listed Rivera's home address as Wright's residential or billing address on an application for an insurance policy; and used Fushimi Agency's business bank account to make a payment toward the premium due on Wright's auto policy.

b. Section 375.141.1(8) because Fushimi used dishonest practices or demonstrated incompetence or untrustworthiness in the conduct of business in this state when he, either personally or through his employees, submitted an application for an insurance policy without the knowledge of the policy owner, listed Rivera's home address as Wright's residential or billing address on an application for an insurance policy; and used Fushimi Agency's business bank account to make a payment toward the premium due on Wright's auto policy.

c. Section 375.141.1(12) because Fushimi accepted insurance business from Rivera, knowing that Rivera was not licensed as an insurance producer.

13. Fushimi agrees that the facts contained in this Consent Order constitute grounds to discipline his expired individual resident insurance producer license pursuant to § 375.141.1(2), (8), and (12).

14. Fushimi and the Division desire to settle the allegations raised by the Division.

15. Fushimi stipulates and agrees to waive any 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 release and hold harmless the Department, the Director, his agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

16. Fushimi acknowledges and understands that he has the right to consult an attorney at his own expense.

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

18. 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

19. 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; [or]

* * *

(12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed[.]

* * *

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.

20. 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:

* * *

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

21. The allegations raised by the Division, and admitted to herein by Fushimi, are grounds to discipline Fushimi's individual resident insurance producer license pursuant to § 375.141.1(2), (8), and (12).

22. The expiration of Fushimi's individual resident insurance producer license does not deprive the Director of jurisdiction to discipline Fushimi's license. Section 375.141.4.

23. 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.

24. 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 Carlos A. Fushimi's individual resident insurance producer license (License No. 8047434) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 7 DAY OF July **, 2015.**

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 Respondent Carlos A. Fushimi has a right to a hearing, but that Carlos A. Fushimi waived the hearing and consented to the issuance of this Consent Order.

Carlos A. Fushimi 2184 Channing Way Box 410 Idaho Falls, Idaho 83404 Telephone: (314) 799-0821 Email: carlos.fushimi@yahoo.com Respondent	7/1/2015 Date
Counsel for Respondent Name: _____ Bar No. _____ Address: _____ _____ Phone: _____ Fax: _____	Date
Tammy S. Kearns, MO Bar #62992 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 Email: tammy.kearns@insurance.mo.gov	July 6, 2015 Date

CONSENT AND WAIVER OF HEARING

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

Carlos A. Fushimi 2184 Channing Way Box 410 Idaho Falls, Idaho 83404 Telephone: (314) 799-0821 Email: carlos.fushimi@yahoo.com Respondent	7/1/2015 Date
Counsel for Respondent Name: _____ Bar No. _____ Address: _____ _____ Phone: _____ Fax: _____	Date
Tammy S. Kearns, MO Bar #62992 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 Email: tammy.kearns@insurance.mo.gov	Date