DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In the Matter of:	)	
	)	
MICHAEL P. IPPOLITO	)	
	)	**DIFP Case No. 12-1128613C**
and	)	**AHC Case No. 13-0390 DI**
	)	
THE BENEFIT PARTNERSHIP, INC.,	)	

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 ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration (the "Department"), whose duties, pursuant to Chapters 374 and 375, RSMo, include the supervision, regulation and discipline of insurance companies, agencies, and producers licensed to operate and conduct business in the State of Missouri.

2. The Department first issued Respondent Michael P. Ippolito ("Ippolito") a non-resident insurance producer license (No. 8029948) on June 9, 2009. Ippolito's license expired on June 9, 2013.

3. The Department issued a non-resident business entity insurance producer license (No. 8033169) to The Benefit Partnership, Inc. ("TBP") on August 10, 2009. The Benefit Partnership's license expired on August 10, 2011.

4. On March 4, 2013, the Director filed a Complaint with the Administrative Hearing Commission ("Commission"), seeking a finding that cause existed to discipline Ippolito's non-resident insurance producer license pursuant to § 375.141.1(2), (8), and (9), RSMo (Supp. 2012),[1] and the business entity producer license held by TBP pursuant to § 375.141.3, RSMo.

5. Both parties were served with a copy of the Complaint on May 10, 2013. Neither Ippolito nor TBP filed an answer.

6. On July 25, 2013, the Director filed a Motion for Summary Decision and Suggestions in Support thereof, seeking the Commission's order finding cause to discipline Ippolito's non-resident insurance producer license pursuant to § 375.141.1(2), (8), and (9), RSMo, and the business entity producer license held by TBP pursuant to § 375.141.3, RSMo. Neither Ippolito nor TBP filed any response to the Director's motion.

7. On August 22, 2013, the Commission issued its Decision, finding cause to discipline Ippolito's non-resident insurance producer license pursuant to § 375.141.1(2), (8), and (9), RSMo, for the following reasons:

a. Eleven states revoked Ippolito's insurance producer license;

[1] All statutory references in this Order shall be to RSMo (Supp. 2012) unless otherwise indicated.

b. Ippolito did not report the revocations entered against him by the insurance departments or commissions of Arkansas, California, Connecticut, Idaho, Kansas, Kentucky, Maine, South Carolina, South Dakota, Texas, and Vermont, which were administrative actions taken against him;

c. Neither Ippolito nor anyone on his behalf appeared before the Director on January 25, 2012 pursuant to a subpoena and subpoena duces tecum served upon him;

d. Ippolito violated the insurance laws of Connecticut, Idaho, Arkansas, South Dakota, Maine, South Carolina, and Texas; and

e. Ippolito's actions relating to his business on behalf of Unum, Transamerica, and ReliaStar constituted dishonest practices, untrustworthiness, and financial irresponsibility in the conduct of business.

8. In support of its finding of cause to discipline Ippolito's license, the Commission found the following facts:

a. Prior to May 2011, Ippolito received authorization from Unum Life Insurance Company of America ("Unum"), ReliaStar Life Insurance Company ("ReliaStar"), and Transamerica Life Insurance Company ("Transamerica") to solicit life insurance business on their behalf;

b. The applications Ippolito submitted to Unum, ReliaStar, and Transamerica contained various misrepresentations. In some cases, the application was not completed or signed by the person shown as the applicant, and in other cases Ippolito and his sub-brokers had applicants misrepresent the nature of their employment and their identities. They also "coached" the applicants in how to apply for insurance or what to say during telephone interviews;

c. All of the policies were canceled for nonpayment, usually for failure to make the first premium payment. Nevertheless, Ippolito received at least $2,650,000 in commissions for the policies in question;

d. On November 29, 2011, the Commissioner of Insurance of the State of Kansas revoked Ippolito's Kansas nonresident insurance agent's license;

e. On February 7, 2012, the Director of the Idaho Department of Insurance revoked Ippolito's non-resident insurance producer license based on Ippolito's failure to notify the Idaho Department of Insurance within 30 days of an administrative action being taken against his Kansas insurance producer license; engaging in fraudulent, coercive or dishonest practices; demonstrating incompetence, untrustworthiness or financial irresponsibility; or being a source of injury and loss to the public or others, in the conduct of business in Idaho or elsewhere;

f. On March 22, 2012, all insurance licenses issued to Ippolito by the Connecticut Insurance Department were revoked by the Insurance Commissioner of Connecticut based on Ippolito's failure to notify the Connecticut Insurance Department that his Kansas producer license had been revoked, and his failure to adequately or properly respond to correspondence sent to him by the Connecticut Insurance Department;

g. On April 9, 2012, the Arkansas Insurance Commissioner revoked Ippolito's nonresident insurance producer license based on Ippolito's failure to attend an investigative conference with the Arkansas Department of Insurance;

h. On April 27, 2012, the South Dakota Secretary of Labor and Regulation revoked Ippolito's nonresident insurance producer license because Ippolito failed to timely respond to inquiries from the South Dakota Division of Insurance;

i. On July 11, 2012, the California Insurance Commissioner revoked Ippolito's nonresident accident and health and life-only insurance agent licenses;

j. On July 18, 2012, the Vermont Commissioner of the Department of Financial Regulation revoked Ippolito's nonresident insurance producer license;

k. On July 19, 2012, the Kentucky Commissioner of the Department of Insurance revoked Ippolito's insurance producer license;

l. On August 9, 2012, the South Carolina Acting Director of Insurance revoked Ippolito's nonresident insurance producer license because Ippolito's insurance licenses had been revoked by several states and based on his involvement in fraudulent activity;

m. On August 16, 2012, the Texas Commissioner of Insurance revoked Ippolito's general lines-life, accident, and health insurance license because Ippolito failed to report administrative actions taken against him by the insurance departments of Kansas, Idaho, and Arkansas;

n. On July 28, 2012, the Maine Department of Professional and Financial Regulation revoked Ippolito's individual insurance producer license, effective August 28, 2012, based on Ippolito's failure to report the revocation of his insurance licenses by Kansas, Idaho, Connecticut, and South Dakota;

o. The above-stated actions by the insurance departments or commissions of Kansas, Idaho, Connecticut, Arkansas, South Dakota, California, Vermont, Kentucky, South Carolina, Texas, and Maine were final dispositions of those cases;

p. None of the above-stated actions were reported by Ippolito to the Director; and

q. The Director served subpoenas and subpoenas duces tecum on Ippolito at his home and business addresses on December 22, 2011, ordering Ippolito to appear before the Department on January 25, 2012, but neither Ippolito nor anyone on his behalf appeared before the Department.

9. The Commission's Decision also found cause to discipline the business entity producer license held by TBP pursuant to § 375.141.3, RSMo, because, as a partner, officer, or manager of TBP, and acting on TBP's behalf, Ippolito knew of his own violations and those of his sub-brokers, but TBP neither reported the violations to the Department nor took corrective action.

10. In support of that finding of cause for discipline against TBP, the Commission found the following facts:

a. On April 21, 2009, Ippolito, as incorporator, filed articles of organization for TBP with the Secretary of the Commonwealth of Massachusetts ("the Secretary"). The articles named Ippolito as TBP's registered agent for service of process. Those articles showed Ippolito to be the president, treasurer, and secretary of TBP;

b. On December 20, 2011, TBP filed articles of voluntary dissolution with the Secretary. Ippolito was shown on that filing as the president, treasurer, and secretary of TBP;

c. TBP's sole officer (Ippolito) knew of the violations he and his sub-brokers committed as set out above; and

d. TBP did not report the violations to the Department and took no corrective action with regard to those violations.

11. On September 25, 2013, the Commission certified its record of its proceedings to the Director pursuant to § 621.110, RSMo (2000).

12. On September 30, 2013, the Director sent Ippolito and TBP a Notice of Hearing by United Parcel Service ("UPS"), signature required, and by U.S. regular mail, both to 9 Misty Court, South Hadley, Massachusetts 01075-1375, setting the disciplinary hearing for October 15, 2013. The notice sent by regular mail did not come back as undelivered. The notice sent by UPS to each party was not delivered, because according to the UPS Quantum view tracking system, the "receiver did not want the order and refused [the] delivery."

13. On October 15, 2013, the Director, through his hearing officer, Cheryl C. Nield, held the disciplinary hearing. Neither Ippolito nor anyone representing him nor TBP by counsel attended the hearing. Carolyn H. Kerr, representing the Department's Division of Consumer Affairs Division, recommended that Ippolito's non-resident insurance producer license and TBP's non-resident business entity producer license be revoked.

14. At the hearing, the hearing officer admitted the Notice of Hearing as Exhibit 1. The hearing officer also took judicial notice of the Commission's record of proceedings and admitted it into evidence as Exhibit 2.

15. The Director hereby incorporates the Commission's August 22, 2013 Decision of the Administrative Hearing Commission referenced herein and does hereby find in accordance with the same. *Director of Dept. of Ins., Fin. Insts. & Prof. Reg'n vs. Michael P. Ippolito and*

The Benefit Partnership, Inc., No. 13-0390 DI (Mo. Admin. Hearing Comm'n, August 22, 2013).

Conclusions of Law

16. Section 621.110 outlines the procedure after the Commission finds cause to discipline a license. That statute 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 . . ., 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. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. . . . 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.

17. Where an agency seeks to discipline a license, the Commission finds the predicate facts as to whether cause exists for the discipline, and then the agency exercises final decision-making 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).

18. Section 374.051.2, relating to a proceeding to revoke or suspend a license, states, in relevant part:

> 2. If a proceeding is instituted to revoke or suspend a license of any person under sections 374.755, 374.787, and 375.141, the director shall refer the matter to the administrative hearing commission by directing the filing of a complaint. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in such cases. The director shall have the burden of proving cause for discipline. If

cause is found, the administrative hearing commission shall submit its findings of fact and conclusions of law to the director, who may determine appropriate discipline.

19. Section 375.141 states, in pertinent 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;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

* * *

3. The license of a business entity licensed as an insurance producer may be suspended, revoked, renewal refused or an application may be refused if the director finds that a violation by an individual insurance producer was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the director nor corrective action taken

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.

* * *

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.

20. The Director has the discretion to discipline Ippolito's non-resident insurance producer license and TBP's non-resident business entity producer license, including the discretion to revoke such licenses. §§ 374.051.2, 375.141.1 and .4, and 621.110.

21. According to § 1.020(1),

> "[C]ertified mail" or "certified mail with return receipt requested", certified mail carried by the United States Postal Service, or any parcel or letter carried by an overnight, express, or ground delivery service that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient.

22. The Director's Notice of Hearing was sent by certified mail via UPS, as that term is defined in § 1.020(1) to Ippolito and TBP. Although UPS attempted delivery neither party accepted it – the "receiver … refused delivery." "When service is allowed by certified mail, sending the certified mail is sufficient. Acceptance of the mailed material is not required; refusal of it is sufficient to establish service." *Dir. of Dept. of Public Safety v. Young*, No. 98-001644 PO (Mo. Admin. Hearing Comm'n, February 24, 1999), citing *State ex rel. Plaster v. Pinnell*, 831 S.W.2d 949, 951-52 (Mo. App., S.D. 1992).

23. 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. 1984).

24. Ippolito's insurance producer license, or its equivalent, was revoked in 11 states, in many cases based on Ippolito's violation of those states' insurance laws. In at least four of those states, Ippolito engaged in fraudulent or dishonest practices. Once those revocations reached their final dispositions, Ippolito, in his individual capacity and in his capacity as a partner, officer, or manager of TBP acting on its behalf, failed to report any of them to the Department within 30 days of their final dispositions as required by Missouri law.

25. In addition, insurance companies that Ippolito did business with in Missouri

terminated his appointments for cause, based on findings that Ippolito "misrepresented the nature of the business" he submitted to the company, and one company's findings that Ippolito misrepresented insurance applicants' eligibility or otherwise provided "materially false statements and/or misrepresentations in connection with their insurance application in order to obtain insurance coverage."

26. When the Department learned of Ippolito's revocations and the termination of his and his agency's appointments and contracts, the Department served Ippolito with two separate subpoenas, requiring Ipplito to appear and answer questions concerning Ippolito's business practices. Neither Ippolito nor anyone on his or his agency's behalf appeared at the scheduled Subpoena Conference, again, in violation of Missouri insurance law.

27. Ippolito was an officer of TBP and acted on TBP's behalf. As a partner, officer, or manager of TBP, and acting on its behalf, Ippolito knew of his own violations and those of his sub-brokers, but TBP neither reported the violations to the Director nor took corrective action. As such, TBP's license is subject to discipline under § 375.141.3.

28. Based on the egregious nature and severity of the aforementioned conduct by Ippolito and TBP, sufficient grounds exist to revoke Ippolito's non-resident insurance producer license pursuant to § 375.141.1(2), (8), and (9), RSMo, and the business entity producer license held by TBP pursuant to § 375.141.3, RSMo.

29. This Order is in the public interest.

ORDER

Based on the evidence presented, the non-resident individual insurance producer license of **Michael P. Ippolito** (License No. 8029948) is hereby **REVOKED**.

Based on the evidence presented, the non-resident business entity insurance producer license of **The Benefit Partnership, Inc.** (License No. 8033169) is hereby **REVOKED.**

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 19th DAY OF November, 2013.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, with sufficient postage attached, via United States Postal Service, postage prepaid, and via UPS with signature required, on this 20th day of November, 2013 to:

Michael P. Ippolito
9 Misty Ct.
South Hadley, MA 01075-1375 Tracking No. 1Z0R15W84294943640

and

The Benefit Partnership, Inc. Tracking No. 1Z0R15W84293949057
c/o Michael P. Ippolito
9 Misty Ct.
South Hadley, MA 01075-1375

And by hand delivery to:

Carolyn H. Kerr, Esq.
Counsel for Consumer Affairs Division
Department of Insurance, Financial Institutions
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