BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

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ADMINISTRATIVE HEARING COMMISSION

DIRECTOR OF THE DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION STATE OF MISSOURI,	)	
Petitioner,	)	Case No.:
vs.	)	
RAYMOND T. PALOMBO,	)	
Respondent.	)	
Serve: 11731 Sterling Avenue, #C Riverside, California 62503	)	

COMPLAINT

The Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists to discipline the license held by Respondent Raymond T. Palombo, because:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration. The Director has the duty to administer Chapters 374 and 375, RSMo, which includes the supervision, regulation, and discipline of insurance companies, agencies, and producers licensed to operate and conduct business in the State of Missouri.

2. The Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") issued Respondent Raymond T. Palombo ("Respondent") a

non-resident insurance producer license (No. 368612) on April 7, 2006. The Department subsequently renewed Respondent's license. Respondent's license expired on April 6, 2010.

3. The Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Supp. 2009).[1]

COUNT I

4. Respondent failed to report four administrative actions taken against him in other jurisdictions within 30 days of the final disposition by providing a copy of the order, consent order, or other relevant legal documents as required by § 375.141.6. Respondent's failure to report each administrative action is a separate ground to discipline his insurance producer license pursuant to § 375.141.1(2).

5. Section 375.141.6 provides:

> 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.

6. Section 375.141.1, provides, in 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[.]

7. The facts are as follows:

[1] All statutory references are to the 2009 Supplement to the Revised Statutes of Missouri, unless otherwise noted.

a. On May 17, 2007, the Indiana Department of Insurance ordered ("Indiana Order") that Respondent pay a civil penalty of $3,000 for failure to disclose cease and desist orders entered against him in the states of Florida, Nebraska, North Carolina, and Texas. Respondent's failure to disclose the cease and desist orders was a violation of Indiana Code §§ 27-1-15.6-12(b)(1), 27-1-15.6-12(b)(3), and 27-1-15.6-12(b)(8). *See In the Matter of Raymond T. Palombo Before the Indiana Commissioner of Insurance*, Cause No. 5433-AG07-0419-121. Respondent failed to report the administrative action taken against his Indiana license to the Department within 30 days of the final disposition of the matter. The Indiana Order is attached to this Complaint as Exhibit A and incorporated by reference in this Complaint as though fully stated herein.

b. On May 31, 2007, the Commissioner of Insurance of the State of Georgia issued a Cease and Desist Order ("Georgia Order") against Respondent ordering him to cease and desist from acting as an unauthorized insurer or agent. *See In the Matter of: Contractors & Merchants Association; and Raymond T. Palombo*, Case No. EF-2007-135. Respondent did not report the administrative action taken against him by the Georgia insurance regulator to the Department within 30 days of the final disposition of the matter. The Georgia Order is attached to this Complaint as Exhibit B and incorporated by reference in this Complaint as though fully stated herein.

c. On May 16, 2008, the Texas Department of Insurance revoked Respondent's Texas General Life, Accident, and Health license ("Texas

Order") because Respondent engaged in fraudulent and dishonest acts or practices, and because Respondent committed an act for which a license may be denied. *See Official Order of the Commissioner of Insurance of the State of Texas, Austin, Texas Subject Considered: Raymond Thomas Palombo* SOAH Docket NO. 454-08-0755.C. Respondent failed to report the administrative action taken against his Texas license to the Department within 30 days of the final disposition of the matter. The Texas Order is attached to this Complaint as Exhibit C and incorporated by reference in this Complaint as though fully stated herein.

d. On September 3, 2009, the California Department of Insurance summarily revoked Respondent's California Life-Only Agent and Accident and Health Agent license ("California Order") based upon the Texas license revocation. *See In the Matter of the Licenses and Licensing Rights of Raymond Thomas Palombo*, Order of Summary Revocation, File No. CO74983-AP. Respondent failed to report the administrative action taken against his California license to the Department within 30 days of the final disposition of the matter. The California Order is attached to this Complaint as Exhibit D and incorporated by reference in this Complaint as though fully stated herein.

8. Each of Respondent's failures to report the Indiana, Georgia, Texas, and California Orders within 30 days of the final disposition of the matters constitutes separate cause to discipline his Missouri insurance producer license pursuant to § 375.141.1(2).

COUNT II

9. Respondent had three insurance producer licenses, or their equivalents, denied or revoked in other states, each of which is a ground to discipline Respondent's Missouri insurance producer license pursuant to § 375.141.1(9).

10. Section 375.141.1, provides, in 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:
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

11. The facts are as follows:

a. On October 10, 2000, the California Department of Insurance issued a Decision ordering Respondent and others to cease and desist from transacting insurance business and from soliciting or enrolling members into an unauthorized health care program. *See In the Matter of Raymond Thomas Palombo, et al.*, File No. OC 110-AP, Order to Cease and Desist and Notice of Hearing.

b. On July 11, 2005, the Wisconsin Commissioner of Insurance refused Respondent's insurance license application based upon the California administrative action in Case No. 05-C29652. See Exhibit E, attached.

c. On May 16, 2008, the Texas Department of Insurance revoked Respondent's Texas General Life, Accident, and Health license because Respondent engaged in fraudulent and dishonest acts or practices, and

because Respondent committed an act for which a license may be denied. See Exhibit C, attached.

d. On September 3, 2009, the California Department of Insurance summarily revoked Respondent's California Life-Only Agent and Accident and Health Agent license based upon the Texas license revocation. See Exhibit D, attached.

12. The Wisconsin refusal, Texas revocation and California revocation each constitute cause to discipline Respondent's Missouri insurance producer license pursuant to § 375.141.1(9).

COUNT III

13. Respondent failed to respond to a Department inquiry as required by 20 CSR 100-4.100(2)(A). Respondent's failure to respond to a Department inquiry is a ground to discipline Respondent's insurance producer license pursuant to § 375.141.1(2).

14. 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.

15. The facts are as follows:

a. On November 9, 2009, a Department Consumer Affairs Division investigator mailed a letter by first class mail to Respondent's address of record requiring a response by November 30, 2009.

b. The November 9, 2009 letter required that Respondent submit a response regarding administrative actions taken against him by the insurance regulators in Texas, Wisconsin, Indiana, and California by November 30, 2009.

c. The November 9, 2009 letter was not returned to the Department as undeliverable.

d. Respondent did not submit a response to the November 9, 2009 letter by November 30, 2009.

e. To date, Respondent has not submitted a response to the November 9, 2009 letter.

f. To date, Respondent not contacted the Department in any way to demonstrate a reasonable justification for a delayed response to the November 9, 2009 letter.

16. Respondent's failure to timely respond to a Department inquiry in violation of regulation 20 CSR 100-4.100(2)(A) or provide a reasonable justification for a delayed response constitutes a ground to discipline his Missouri insurance producer license pursuant to § 375.141.1(2).

COUNT IV

17. Respondent demonstrated financial irresponsibility in the conduct of business in this state or elsewhere, which is a ground to discipline Respondent's Missouri insurance producer license pursuant to § 375.141.1(8).

18. Section 375.141.1, provides, in 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:

* * *

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

19. The facts are as follows:

a. At all times relevant to this Complaint, Respondent was the president and sole shareholder of Contractors and Merchants Association ("Association"). The Association operated as an employer association.

b. On January 1, 2005, Respondent, while a fiduciary of the Manufacturing and Industrial Workers Benefits Fund ("MIWU Fund"), and other defendants transferred 880 of Respondent's Association members and their existing claims liability from the International Union of Public and Industrial Workers Fund to the MIWU Fund without conducting any underwriting analysis to determine whether the group's contribution rates would be adequate to fund its liabilities. Respondent and others failed to conduct any formal process to establish contribution rates or benefit schedules. After the Association members' benefit claims overwhelmed the MIWU Fund's solvency, Respondent and others abandoned the MIWU Fund. The MIWU Fund ceased processing benefit claims after March 31, 2005.

c. The United States Secretary of Labor filed suit in 2008 against Respondent and other defendants alleging violations of the Employee

Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.* Respondent did not respond to the suit and the United States District Court for the Northern District of Georgia, Atlanta Division, made an entry of default against Respondent and the other defendants on October 26, 2009, in Civil Action No. 1:08-CV-2017-BBM.

d. The October 26, 2009 Order found Respondent and the other defendants jointly and severally liable in the amount of $2,958,681.36 for breaching their fiduciary duties and mismanagement of the MIWU Fund.

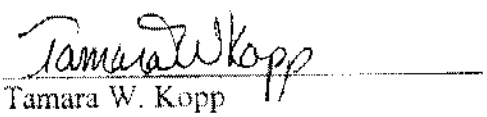
e. The October 26, 2009 Order issued by the United States District Court for the Northern District of Georgia, Atlanta Division, in *Hilda L. Solis, Sec'y of Labor, U.S. Dep't of Labor, v. Raymond Palombo, et al.*, Civil Action No. 1:08-CV-2017-BBM is incorporated by reference in this Complaint as though fully stated herein and attached as Exhibit F.

20. Respondent's conduct as fiduciary of the MIWU Fund, and the resulting financial losses, demonstrated financial irresponsibility in the conduct of business. "Financial irresponsibility is dealing with money or other liquid resources without a sense of accountability." *Dep't of Ins., Financial Inst. and Prof'l Registration v. James N. Holland*, Mo. Admin. 06-0247 DI, 2007 WL 4226489 *8; *Merriam-Webster's Collegiate Dictionary*, 469, 663 and 1062 (11th ed. 2004). Respondent's failure to properly evaluate the transfer of association members between funds resulted in MIWU Fund losses of nearly $3 million and demonstrated financial irresponsibility in the conduct of business.

WHEREFORE, based on the foregoing, Petitioner respectfully requests that the Commission make findings of fact and conclusions of law stating that Petitioner has

established cause to discipline Respondent Raymond T. Palombo's non-resident insurance producer license pursuant to §§ 375.141.1(2), 375.141.1(8), and 375.141.1(9), RSMo (Supp. 2009).

Respectfully submitted,



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