

STATE OF MISSOURI



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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

In re:)
) DIFP No. 11-1128809C
SCOTT A. BOUSQUET,)
) AHC No. 12-1771 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 ("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 Department originally issued an insurance producer license to Scott A. Bousquet ("Bousquet") on July 7, 2004 (No. 0332063). Such license expired on July 7, 2012.

3. The Director filed a Complaint with the Administrative Hearing Commission ("Commission") on September 28, 2012, seeking a finding that cause exists to discipline Bousquet's insurance producer license. On October 3, 2012, the Commission served Bousquet with a copy of the Complaint. Bousquet did not file an answer.

4. On January 28, 2013, the Director filed a Motion for Summary Decision and Suggestions in Support. Bousquet did not file a response.

5. On March 5, 2013, the Commission issued its Decision finding cause to discipline Bousquet's insurance producer license pursuant to § 375.141.1(2), (6), and (8) RSMo Supp. 2012.¹

6. In support of its finding of cause for discipline, the Commission found the following facts and made the following conclusions:

[REDACTED]

¹ All statutory references are to the 2012 Supplement to the Revised Statutes of Missouri unless otherwise noted.

[REDACTED]

[REDACTED]

e. Bousquet is subject to discipline pursuant to § 375.141.1(2) for violating § 375.141.7.

f. Bousquet is subject to discipline pursuant to § 375.141.1(6) [REDACTED]

[REDACTED]

7. The Commission certified the record of its proceeding to the Director pursuant to § 621.110.

8. Thereafter, the Director served Bousquet by certified mail and first class mail with a Notice of Hearing, which set the Disciplinary Hearing for 9:00 a.m., May 7, 2013, in Room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. As of the date of the hearing, the hearing officer had not received the certified mail receipt. However, the U.S. Postal Service had not returned as undeliverable the Notice of Hearing sent to Bousquet by regular mail.

9. On May 7, 2013, the Director, through his hearing officer, Carolyn H. Kerr, held the disciplinary hearing. Neither Bousquet nor anyone representing him appeared at the disciplinary hearing. Tammy Kearns, representing the Consumer Affairs Division, presented the Commission's record and recommended that Bousquet's insurance producer license be revoked.

10. At the hearing, the hearing officer took official notice of the Commission's record of proceedings and the Notice of Hearing. The hearing officer admitted the Commission's record and the Notice of Hearing as Exhibits 1 and 2, respectively.

11. The Director hereby adopts and incorporates the March 5, 2013 Decision of the Administrative Hearing Commission and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Scott A. Bousquet*, No. 12-1771 DI (Mo. Admin. Hrg. Comm'n March 5, 2013).

Conclusions of Law

12. Section 374.051.2, states, in relevant part:

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.

13. Section 375.141 states, 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;

* * *

(6) Having been convicted of a felony or crime involving moral turpitude;

* * *

(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. Within thirty days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution for a felony or a crime involving moral turpitude of the producer taken in any jurisdiction. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

14. Section 375.141.4 provides, in relevant part, "The director may also revoke or suspend . . . any license issued by the director where the licensee has failed to renew or has

surrendered such license.”

15. 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[.]

16. Pursuant to §§ 374.051.2, 375.141, and 621.110, RSMo, the Director has the discretion to discipline Bousquet’s insurance producer license, including the discretion to revoke such license.

17. Where an agency seeks to discipline a license, the Commission “finds the predicate facts as whether cause exists” for the discipline, and then the agency “exercises final decision making authority concerning the discipline to be imposed.” *Tendai v. Board of Reg’n for the Healing Arts*, 161 S.W.3d 358, 364-65 (Mo. banc 2005), *overruled on other grounds*, *Albanna v. Board of Reg’n for the Healing Arts*, 293 S.W.3d 423, 428 n.2 (Mo. banc 2009).

18. The principal purpose of § 375.141 is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

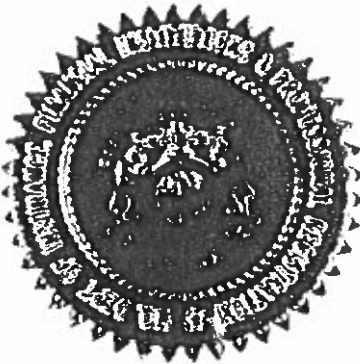
19. [REDACTED]


20. Based on the nature and severity of the aforementioned conduct, sufficient grounds exist for revoking Bousquet's insurance producer license pursuant to § 375.141.1(2), (6) and (8).

ORDER

Based on the foregoing findings and conclusions, the insurance producer license of Scott A. Bousquet (License No. 0332063) is hereby REVOKED.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 3RD DAY OF JULY, 2013.





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

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July, 2013, a copy of the foregoing was served by first class mail and by certified mail to the following:

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