



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

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

In re: Bennett Edmond Zinman) DIFP No. 1812261063H
)
) **AHC No. 18-0588**

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER OF DISCIPLINE**

Based on the competent and substantial evidence on the whole record, I, Chlora Lindley-Myers, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Director” of the “Department”), hereby issue the following Findings of Fact, Conclusions of Law and Order of Discipline:

Findings of Fact

1. Chlora Lindley-Myers is the duly appointed Director of the Department whose duties, pursuant to Chapters 374 and 375, RSMo, include the supervision, regulation and discipline of insurance producers.
2. The Director filed a Complaint with the Administrative Hearing

Commission (“Commission”) on August 2, 2018, seeking a finding that cause existed for disciplining Bennett Edmond Zinman’s (“Zinman”) insurance producer license.

3. On September 28, 2018, Zinman was served with a copy of the Complaint. Zinman never filed an Answer to the Complaint.

4. On November 14, 2018, the Director filed a Motion for Remedy and Default Decision, which included suggestions in support. The Commission gave Zinman until November 29, 2018 to file a response, but he did not respond.

5. On December 14, 2018, the Commission issued a Default Decision finding cause to discipline Zinman’s insurance producer license pursuant to § 375.141.1(2), (9), and (14), RSMo 2016.¹ *Director of Dep’t of Ins., Fin. Insts. & Prof’l Reg’n v. Bennett Edmond Zinman*, No. 18-0588 (Mo. Admin. Hrg. Comm’n December 14, 2018) (Default Decision). The Commission found Zinman had admitted the following facts:

a. Zinman is currently a Kansas resident with a residential address of 8012 Perry Street, Apt. 196, Overland Park, Kansas 66204.

b. On August 25, 2017, the Department received Zinman’s “Uniform Application for Individual Producer Renewal/Continuation” (“2017 Application”).

c. The Department received previous Applications from Zinman on December 31, 2012 (“2012 Application”) and January 6, 2015 (“2015 Application”). At the time he submitted the 2012 and the 2015 Applications, Zinman was a Missouri resident with a residential address of 20 West Bridlespur

¹ All references are to the Revised Statutes of Missouri, 2016, unless otherwise indicated.

Terrace, Kansas City, Missouri 64114.

d. Background Question No. 1 on the 2012 Application asks, in relevant part:

Have you been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime, which has not been previously reported to this insurance department?

Note: "Crime" includes a misdemeanor, a felony or a military offense.

e. Background Question No. 1.A. on the 2015 and 2017 Applications asks in relevant part:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to this insurance department?

f. Zinman answered "No" to Background Question No. 1 on his 2012 Application and "No" to Background Question No. 1.A. on his 2015 and 2017 Applications.

g. Zinman's insurance producer license expired on December 27, 2018.

h. In addition to the resident insurance producer license held by Zinman in the state of Missouri, on August 29, 2017, Zinman also applied for a Kansas resident individual insurance agent license ("Kansas Application") with the Kansas Insurance Department ("Kansas Department").

i. Background Question 1.a. under item 38 of the Kansas Application asks "Have you ever been convicted of a misdemeanor, had a judgment withheld

or deferred, or are you currently charged with committing a misdemeanor?”

j. The Kansas Application also requires the applicant to furnish copies of all charging and sentencing documents along with a statement outlining the circumstances of the incident.

k. As he had on the 2012, 2015 and 2017 Applications submitted to the state of Missouri, Zinman answered “No” to Background Question No. 1.a. on the Kansas Application.

l. The Kansas Department investigated Zinman’s Kansas Application and discovered that on August 25, 2011, the City of Overland Park, Kansas, charged Zinman with Patronizing a Prostitute-Knowing Entry, Remaining in a House of Prostitution, in violation of city ordinance no. 11.24.040, *City of Overland Park v. Zinman, Bennett Edmond*, Mun. Ct. of the City of Overland Park, Kansas, Case No. 2011-0363253.

m. The Kansas Department further learned that on February 17, 2012, Zinman pled guilty to the charge of Patronizing a Prostitute. *Id.* Pursuant to a plea agreement, the Municipal Court of Overland Park, Kansas, sentenced Zinman to thirty days and a fine totaling \$567.00. The court then suspended confinement and placed Zinman on probation for a period of one year. *Id.*

n. The Kansas Department also learned that on November 10, 2011, the City of Prairie Village, Kansas, charged Zinman with a crime, Patronizing a Prostitute, *City of Prairie Village v. Bennett Edman (sic) Zinman*, Mun. Ct. of

Prairie Village, Case No. 327428.

o. On March 8, 2012, Zinman entered a plea of guilty to the charge, Patronizing a Prostitute. *Id.* The Court fined Zinman a total of \$750.00. *Id.*

p. On September 6, 2017, the Kansas Department denied Zinman's Kansas Application ("2017 Kansas Denial") because Zinman:

- 1) Provided incorrect, misleading, incomplete or untrue information in the license application; and/or
- 2) Had been convicted of a misdemeanor or felony.

q. Although Zinman appealed the 2017 Kansas Denial, Zinman failed to appear at the November 28, 2017, hearing scheduled by the Kansas Department. Consequently, on November 30, 2017, the Kansas Commissioner of Insurance issued a Default Order dismissing Zinman's appeal and making the 2017 Kansas Denial final. *In the Matter of the Application for a Kansas Resident Insurance Agent's License of Bennett E. Zinman*, Docket No. 5107-L.

r. The Kansas Department notified the Department of the 2017 Kansas Denial and Default Order.

s. Zinman failed to report the administrative action taken by the Kansas Department denying Zinman's Kansas Application to the Director. *In the Matter of the Application for a Kansas Resident Insurance Agent's License of Bennett E. Zinman*, Docket No. 5107-L.

t. On January 9, 2018, Investigator Dennis Fitzpatrick ("Fitzpatrick"),

with the Consumer Affairs Division (“Division”) of the Department, sent Zinman an inquiry letter by first class mail, postage prepaid. The inquiry letter requested “a written statement,” explaining each solicitation conviction and a certified copy of the court records regarding the two convictions. The inquiry letter further advised Zinman that his response was due within twenty days and advised Zinman that “[f]ailure to respond could result in disciplinary action by this Department.”

u. Having failed to receive any response to the January 9, 2018, inquiry letter, on January 29, 2018, Fitzpatrick sent a second inquiry letter, first class mail, postage prepaid, to Zinman again requesting information regarding the two solicitation convictions.

v. The inquiry letters were not returned to the Division as undeliverable and therefore are presumed received by Zinman.

w. The Division never received any response from Zinman to the inquiry letters, nor did Zinman demonstrate reasonable justification for the delay in responding.

x. Following the Kansas Department’s notification to the Department that the Kansas Department was denying Zinman’s Kansas Application and the reasons for that denial, the Department conducted its own investigation and as a result, the Department found a June 20, 2014, Missouri state tax lien issued by the Missouri Department of Revenue for individual income taxes, interest and additions to the tax in the amount of \$2,023.62. *DOR-CE v. Bennett E. Zinman*,

Jackson Co. Cir. Ct., Case No. 1416-MC09223.

y. The Department additionally discovered a June 30, 2017, tax lien issued by the Missouri Department of Revenue for individual income taxes and interest due in the amount of \$2,255.53. *DOR-CE v. Bennett E. Zinman*, Jackson Co. Cir. Ct., Case No. 1716-MC07056.

6. The Commission concluded that there is cause to discipline Zinman under § 375.141.1(2) because Zinman violated 20 CSR 100-4.100(2)(A) by not responding to the Division's inquiry letters and § 375.141.6 by failing to report the administrative action taken by the state of Kansas when it refused to issue an insurance producer license to Zinman in 2017. *Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Zinman*, Case No. 18-0588 (Mo. Admin. Hrg. Comm'n December 14, 2018) (Default Decision).

7. The Commission also found cause to discipline Zinman's insurance producer license under § 375.141.1(9) because the state of Kansas refused to issue a license to Zinman in 2017. *Id.*

8. The Commission further found cause to discipline Zinman's insurance producer license under § 375.141.1(14) because Zinman has failed to comply with two orders directing the payment of state income tax. *Id.*

9. On January 17, 2019, the Commission certified the record of its proceeding to the Director pursuant to § 621.110.

10. Thereafter, the Director served the Notice of Hearing upon Zinman by UPS, signature required, which set the disciplinary hearing for 1:30 p.m., February 26,

2019, in the offices of the Department, 301 West High Street, Room 530, Jefferson City, Missouri. The UPS Notice of Delivery receipt was signed by Zinman and returned to the Director.

11. Zinman did not appear at the disciplinary hearing. Shelley A. Woods appeared as counsel for the Division. *Disciplinary Hearing Transcript ("Tr.")* 4-5.

12. The Division's evidence consisted of Exhibits 1 through 3 and the testimony of Dennis Fitzpatrick, Special Investigator with the Division. *Tr.* 8-14.

13. The hearing officer, Cheryl C. Nield, admitted the Division's Exhibit 1, the Commission's certified record of proceedings; Exhibit 2, the Notice of Hearing; and Exhibit 3, the UPS Delivery Notification.

14. At the hearing, the Division, through counsel, recommended that Zinman's insurance producer license be revoked. *Tr.* 12-13.

15. The Director hereby adopts and incorporates the Commission's December 14, 2018, Default Decision referenced herein and does hereby find in accordance with the same. *Director of Dep't of Ins., Fin. Insts. & Prof'l Reg'n v. Bennett Edmond Zinman*, No. 18-0588 (Mo. Admin. Hrg. Comm'n December 14, 2018) (Default Decision).

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 decisionmaking authority concerning the discipline to be imposed.” *State Board of Reg’n for the Healing Arts v. Trueblood*, 368 S.W.3d 259, 267-68 (Mo. App. W.D. 2012) (citing § 621.110).

18. Section 374.051.2, relating to a proceeding to revoke or suspend a license, 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.

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;

* * *

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

* * *

(14) Failing to comply with any administrative or court order directing the payment of state or federal income tax.

* * *

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. Title 20 CSR 100-4.100(2)(A) is a regulation of the Director and 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.

21. "There is a presumption that a letter duly mailed has been received by the

addressee.” *Clear v. Mo. Coordinating Bd. For Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000) (internal citations omitted).

22. The Director has discretion to discipline Zinman’s insurance producer license, including the discretion to revoke such license. Sections 374.051.2, 375.141, and 621.110.

23. The expiration of Zinman’s license does not frustrate the Director’s authority to impose discipline. Section 375.141.4.

24. 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).

25. Section 375.141.1 provides that the Director may “suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one of” the listed grounds.

26. Section 621.110 allows the Director to receive evidence relevant to the appropriate disciplinary action.

27. Zinman, as a licensed insurance producer, was denied licensure by the state of Kansas, failed to respond to inquiry letters sent by the Division, and has failed to comply with orders directing the payment of state income taxes. Additionally, Zinman failed to report his 2017 Kansas Denial to the Director.

28. Based on the nature and severity of the aforementioned conduct, sufficient grounds exist for revoking the insurance producer license of Zinman pursuant to § 375.141.1(2), (9), and (14).

ORDER

Based on the foregoing Findings and Conclusions, the insurance producer license of **Bennett Edmond Zinman** (License No. 8064037) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 16th
DAY OF May, 2019.



Chlora Lindley Myers
Chlora Lindley-Myers, Director
Missouri Department of
Insurance, Financial Institutions
and Professional Registration

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2019, a copy of the foregoing Findings of Fact, Conclusions of Law and Order of Discipline, was served by regular mail and UPS, to the following:

Bennett Edmond Zinman
8012 Perry Street
Apt. 196
Overland Park, KS 66204

Tracking # 1Z0R15W84294851490

and by hand delivery to:

Shelley A. Woods
Counsel for the Consumer Affairs Division
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