

**FINAL ORDER**  
**EFFECTIVE**  
**05-04-2018**

**BEFORE THE DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION  
STATE OF MISSOURI**

<b>IN RE:</b>	)	
	)	<b>DIFP Case No. 161110479C</b>
<b>JOSHUA ALFONSAS VELA,</b>	)	
	)	<b>AHC Case No. 17-0423</b>
<b>Respondent.</b>	)	

**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, 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 Missouri Department of Insurance, Financial Institutions and Professional Registration (“Director” of the “Department”) whose duties, pursuant to Chapters 374 and 375, RSMo<sup>1</sup> include the supervision, regulation, and discipline of insurance producers in the State of Missouri.
2. On August 14, 2015, the Department issued to Respondent Joshua Alfonsas Vela (“Vela”) a nonresident insurance producer license, number 8354414, which expired on August 14, 2017.
3. On April 14, 2017, the Director filed a Complaint with the Missouri Administrative Hearing Commission (“Commission”) pursuant to § 621.045, by which she sought the Commission’s determination that cause exists to discipline Vela’s license.
4. On June 19, 2017, counsel for the Director served Vela with a copy of the

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<sup>1</sup> All statutory references are to the 2016 Missouri Revised Statutes.

Complaint by UPS, signature required and electronically tracked, but neither Vela nor anyone on his behalf filed an answer or other responsive pleading.

5. On August 15, 2017, the Director filed a Motion for Summary Decision. The Commission gave Vela until August 28, 2017 to file any response, but he filed nothing.

6. On September 1, 2017, the Commission issued its Decision finding cause to discipline Vela's license pursuant to § 375.141.1(2) and (9). *Director, Dep't of Ins., Fin. Insts. & Prof'l Regis'n v. Vela*, Case No. 17-0423.

7. In its Decision, the Commission found the following facts, among others:

- a. On October 1, 2015, the Acting Commissioner of Insurance for the Kansas Insurance Department issued an order that became final on October 12, 2015, denying Vela's application for a nonresident insurance agent license (the "Kansas Denial").
- b. Vela did not file a motion to vacate the Kansas Denial, nor did he pursue a judicial appeal of the Kansas Denial.
- c. Vela never provided a copy of the Kansas Denial to the Director or reported in any manner to the Director information regarding the Kansas administrative action.
- d. On March 30, 2016, the Deputy Commissioner of Insurance for the Louisiana Department of Insurance issued an order suspending Vela's nonresident insurance producer license (the "Louisiana Suspension").
- e. Vela pursued neither an administrative nor judicial appeal of the Louisiana Suspension.

- f. Vela never provided a copy of the Louisiana Suspension to the Director or reported in any manner to the Director information regarding the Louisiana administrative action.
- g. On June 30, 2016, the Virginia State Corporation Commission issued an order revoking Vela's nonresident insurance agent license (the "Virginia Revocation").
- h. Vela did not appeal the Virginia Revocation.
- i. Vela never provided a copy of the Virginia Revocation to the Director or reported in any manner to the Director information about the Virginia administrative action.
- j. On December 27, 2016, the West Virginia Insurance Commissioner issued a final order revoking Vela's nonresident insurance producer license (the "West Virginia Revocation").
- k. Vela did not appear at a hearing in the West Virginia administrative action, nor did he appeal or otherwise contest the West Virginia Revocation.
- l. Vela never provided a copy of the West Virginia Revocation to the Director or reported in any manner to the Director information regarding the West Virginia administrative action.
- m. On December 28, 2016, the Secretary of the South Dakota Department of Labor and Regulation, Division of Insurance, issued a final order revoking Vela's nonresident insurance producer license (the "South Dakota Revocation").

- n. Vela did not appear at a hearing in the South Dakota administrative action, nor did he appeal or otherwise contest the South Dakota Revocation.
- o. Vela never provided a copy of the South Dakota Revocation to the Director or reported in any manner to the Director any information about the South Dakota administrative action.
- p. On August 8, 2016, Special Investigator Karen Crutchfield of the Consumer Affairs Division within the Department (“Special Investigator Crutchfield” of the “Division”) sent an inquiry letter by first-class mail to Vela’s residential and mailing address of record, advising him that the Division had learned of the administrative actions taken against him by Kansas, Louisiana, and Virginia’s insurance regulators. The letters asked Vela for information and documentation about the matters, including why he had not reported them to the Department.
- q. Vela received the August 8, 2016 letter.
- r. Vela never provided the Division any response to the August 8, 2016 inquiry letter, nor did he demonstrate reasonable justification for his nonresponsiveness.
- s. On September 1, 2016, Special Investigator Crutchfield sent by the same method a second inquiry letter that was substantially similar to the August 8, 2016 inquiry letter, except for the addition of the cautionary header “Second Notice” and a new date.
- t. Vela received the September 1, 2016 letter.
- u. Vela never provided the Division any response to the September 1, 2016

inquiry letter, nor did he demonstrate reasonable justification for his nonresponsiveness.

*Id.*

8. Based on the foregoing factual findings, the Commission found cause to discipline Vela's license pursuant to:

- a. Section 375.141.1(2) because Vela violated an insurance law, § 375.141.6, by failing to report the administrative actions against him, and because Vela violated a regulation of the Director, 20 CSR 100-4.100(2)(A), by failing to respond, without justification, to the Division's inquiry letters; and
- b. Section 375.141.1(9) because Vela had insurance producer licenses, or their equivalents, revoked, suspended, and denied in other states.

*Id.*

9. On October 10, 2017, the Commission certified the record of its proceeding to the Director pursuant to § 621.110.

10. On November 13, 2017 and November 15, 2017, the Department sent Vela a Notice of Hearing to his address of record before the Commission.

11. On December 13, 2017, the Director, through her Hearing Officer Cheryl C. Nield ("Hearing Officer"), held a Disciplinary Hearing to determine the appropriate disciplinary action, if any, to be taken against Vela's insurance producer license. *Disciplinary Hearing Transcript* at 5. Neither Vela nor anyone on his behalf appeared; however, Mark J. Rachel appeared on behalf of the Division. *Id.* at 6.

12. At the Disciplinary Hearing, the Hearing Officer admitted the Commission's certified record of its proceeding into evidence as Exhibit 1, and copies of the Notice of Hearing

sent to Vela as Exhibit 2. *Id.* at 8-9.

13. At the Disciplinary Hearing, the Division recommended revocation of Vela's insurance producer license. *Id.* at 7, 9.

14. After the Disciplinary Hearing, the Division submitted its proposed findings of fact, conclusions of law, and order of discipline to the Hearing Officer pursuant to her Order Setting Briefing Schedule issued on December 18, 2017.

15. The Director hereby incorporates the Commission's September 1, 2017 Decision referenced herein and finds in accordance with the same. *Director, Dep't of Ins., Fin. Insts. & Prof'l Regis'n v. Vela*, Case No. 17-0423.

#### CONCLUSIONS OF LAW

16. 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; [or]

\* \* \*

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

\* \* \*

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.

17. 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.

18. Section 374.051.2 provides, in relevant part:

If a proceeding is instituted to revoke or suspend a license of any person under section[] ... 375.141, the director shall refer the matter to the administrative hearing commission ... [which] 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 621.110 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 and within one hundred twenty days of the date the case became ready for decision, 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. ... 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.

20. Accordingly, “in the case of discipline imposed upon an existing license, the relevant statutes establish a bifurcated procedure, under which the AHC finds the predicate facts as to whether cause exists to discipline a license, and the [Director] then exercises final decisionmaking authority concerning the discipline to be imposed.” *See State Bd. of Regis’n for the Healing Arts v. Trueblood*, 368 S.W.3d 259, 267-68 (Mo. App. W.D. 2012) (emphasis removed) (citing § 621.110).

21. “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. E.D. 1984). “Missouri courts have consistently held that ‘the purpose behind licensing statutes is to protect the public rather than to punish the licensed professional.’” *Garozzo v. Mo. Dep’t of Ins., Fin. Insts. & Prof’l Regis’n*, 389 S.W.3d 660, 665 (Mo. banc 2013) (internal citation omitted).

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

23. The Commission has the authority to conduct hearings and make findings of fact and conclusions of law that cause exists to discipline an insurance producer license. Sections 621.045 and 621.110.

24. Section 621.110 authorizes the Department to receive evidence relevant to the appropriate disciplinary action, from Vela or any other source, including the Division.

25. The Director has the discretion to discipline Vela’s license, including the discretion to revoke that license. Sections 374.051.2, 375.141.1, and 621.110.

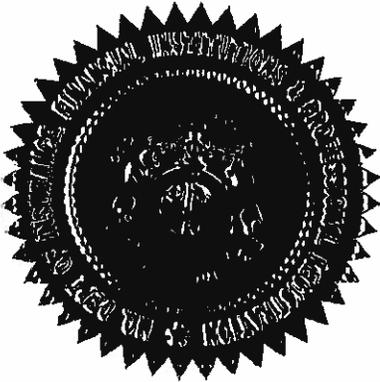
26. Based on the Commission’s finding of cause for discipline pursuant to multiple statutory grounds and the seriousness of the conduct involved, revocation of Vela’s expired nonresident insurance producer license pursuant to § 375.141.1(2) and (9) is appropriate.

27. This Order is in the public interest.

**ORDER**

Based on the foregoing findings and conclusions, the expired nonresident insurance producer license of **Joshua Alfonsas Vela**, number 8354414, is hereby **REVOKED**.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 30<sup>th</sup> DAY OF March, 2018.



*Chlora Lindley Myers*

**CHLORA LINDLEY-MYERS**  
**DIRECTOR, Missouri Department of Insurance,**  
**Financial Institutions and Professional Registration**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served via United Parcel Service, signature required, on this 4th day of April , 2018 to:

Joshua Alfonsas Vela  
12411 West Center Road  
Omaha, Nebraska 68144-3951

Tracking # 1Z0R15W84290406344

And hand delivered to:

Mark J. Rachel  
Counsel for Consumer Affairs Division  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration



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