

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

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

In re:)	
)	DIFP No. 130913526C
NADER MUSA,)	
)	AHC No. 13-1774 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 issued Respondent Nader Musa ("Musa") an insurance producer

license (No. 0147645) on July 13, 2001, which expired on July 13, 2009.

3. On October 9, 2013, the Director filed a Complaint with the Administrative Hearing Commission (“Commission”) seeking a finding that cause existed to discipline Musa’s insurance producer license. *Director of Dep’t of Ins., Fin. Insts. & Prof’l Reg’n v. Nader Musa*, No. 13-1774 DI (Mo. Admin. Hrg. Comm’n Apr. 7, 2014).

4. On October 21, 2013, Musa was served with a copy of the Complaint by certified mail. Musa did not file an Answer to the Complaint. *Id.*

5. On February 24, 2014, the Director filed a Motion for Partial Summary Decision and Suggestions in Support. The Commission gave Musa until March 10, 2014 to respond, but Musa did not do so. *Id.*

a. On April 3, 2014, the Commission issued its Order finding cause to discipline Musa’s insurance producer license pursuant to § 375.141.1(2), (6), and (9) RSMo (Supp. 2012).¹ On April 7, 2014, the Commission issued its Decision that incorporated the April 3, 2014 Order. *Director of Dep’t of Ins., Fin. Insts. & Prof’l Reg’n v. Nader Musa*, No. 13-1774 DI (Mo. Admin. Hrg. Comm’n Apr. 7, 2014).

6. In support of its finding of cause to discipline Musa’s insurance producer license, the Commission found the following facts, in relevant part:

a. Musa was a licensed insurance producer in Illinois.

b. On September 3, 2003, Musa executed a Stipulation and Consent Order (“2003 Stipulation”) with the Illinois Department of Insurance (“Illinois Department”), in which Musa agreed to pay a civil forfeiture of \$6,000 and to modify his business practices to comply with Illinois insurance laws and regulations.

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

c. The administrative action taken against Musa by the Illinois Department became final on September 3, 2003.

d. Musa did not report the administrative action taken against him by the Illinois Department to the Department within thirty days of the final disposition of the matter.

e. On September 9, 2010, Musa signed an order of voluntary revocation with the Illinois Department.

f. On November 18, 2010, the Illinois Department issued an Order of Voluntary Revocation ("Illinois Order") revoking Musa's insurance producer's license.

g. In November 2009, National States Insurance Company in Liquidation ("National States") terminated Musa's appointments with it. Musa was no longer appointed to sell or do the business of insurance for or on behalf of National States.

h. In December 2011, when he was not licensed in Missouri or Illinois, Musa called his former clients, Missouri residents Wesley and Dixie Eichelmann (collectively "the Eichelmanns"), told them he was a licensed agent for National States, and convinced them to pay him over \$9,000 for what he described as premium increases in their insurance rate.

i. On June 18, 2012, the Missouri Department received a Consumer Complaint Report ("Complaint") from the Eichelmanns against Musa. The Eichelmanns alleged the following:

In Dec. 2011, Mr. Musa called us requesting that we pay our 2012 premium for year 2012 in advance, that he could save us a premium increase. We mailed a check (#8376) in the amount of \$2024.88, sent to his home address. On May 10, 2012, after being contacted several times by Mr. Musa, also being told there was an 18% increase, we sent checks #1458 and #1457 to him in the amounts of \$3115.16 and \$4049.82 to pay up until 3/2015. Since

we had had Mr. Musa as agent for National States Ins. Co. we had no knowledge that he was no longer a representative for them. We had received no notification that we no longer had an agent. In May, 2012 we received a call from Andrew Leach of St. Clair Co., Il., regarding [sic] investigation, that our checks were in a frozen acct. in Regions Bank. We are requesting return of these checks.

j. On April 27, 2012, in the Circuit Court of St. Clair County, Illinois ("the Circuit Court"), two criminal indictments were filed against Musa alleging theft by deception, a Class 2 felony:

COUNT 1 of 2 : The GRAND JURY of St. Clair County, Illinois in the name and by the authority of the People of the State of Illinois, charges that NADER MUSA from between the 13th day of September, 2011 and the 22nd day of September, 2011 in the County of St. Clair, in the State of Illinois, committed the offense of THEFT BY DECEPTION, in violation of Section 16-1(a)(2)(A), Act 5.0, Chapter 720, Illinois Compiled Statutes 2006, in that NADER MUSA, knowingly obtained, by deception, control over property of Edna Nienhaus, being \$5,620.69 United States currency, having a total value in excess of \$500.00 intending to deprive the owner, permanently of the use and benefit of the property, in that he, while portraying himself as a licensed insurance salesman, induced Edna Neinhause to write a personal check made payable to him, indicating to Edna Nienhaus that the money would be used for her insurance premiums, when in fact was not used as such. . . .

COUNT 2 of 2 : The GRAND JURY of St. Clair County, Illinois in the name and by the authority of the People of the State of Illinois, charges that NADER MUSA from between the 13th day of September, 2011 and the 22nd day of September, 2011 in the County of St. Clair, in the State of Illinois, committed the offense of THEFT BY DECEPTION, in violation of Section 16-1(a)(2)(A), Act 5.0, Chapter 720, Illinois Compiled Statutes 2006, in that NADER MUSA, knowingly obtained, by deception, control over property of Virginia Hankammer, being \$3,850.88 United States currency, having a total value in excess of \$500.00 intending to deprive the owner, permanently of the use and benefit of the property, in that he, while portraying himself as a licensed insurance salesman, induced Virginia Hankammer to write a personal check made payable to him, indicating to Virginia

Hankammer that the money would be used for her insurance premiums, when in fact was not used as such.

k. At the time Musa was charged with the crimes, Edna Neinhaus, the victim in the first count of theft by deception charged against Musa, was 83 years old, and Virginia Hankammer, the victim in the second count of theft by deception charged against Musa, was 88 years old.

l. On July 16, 2012, in the Circuit Court, a criminal information was filed against Musa alleging unlawful solicitation of insurance, a Class 4 felony:

COUNT 1 of 1: BRENDAN F. Kelly of St. Clair County, Illinois in the name and by the authority of the people of the State of Illinois charges that NADER MUSA from between the 14th of May, 2012 and the 15th of May, 2012, in the County of St. Clair, in the State of Illinois NADER MUSA committed the offense of UNLAWFUL SOLICITATION OF INSURANCE, in violation of Section 500-15(a), Act 5.0, Chapter 215, ILCS, 2006, in that NADER MUSA, knowingly and without authority, solicited assisted living/nursing home and home health care insurance for Wesley and Dixie Eichelmann, without a license to solicit insurance, and in doing so misappropriated moneys collected from Wesley and Dixie Eichelmann through such solicitation.

m. Wesley and Dixie Eichelmann were 66 and 75 years old, respectively, at the time Musa was charged with the unlawful solicitation of insurance.

n. Musa committed the conduct as alleged in the indictment and information.

o. On July 16, 2013, Musa pled guilty to both counts of the Class 2 felony of theft by deception, in violation of Section 16-1(a)(2)(A), Act 5.0, Chapter 720, ILCS, 2006, and one count of the Class 4 felony of unlawful solicitation of insurance, in violation of Section 500-15(a), Act 5.0, Chapter 215, ILCS, 2006.

p. The Circuit Court sentenced Musa to twelve months' probation on each count, to run consecutively, electronic monitoring for the first six months, and ordered him to pay restitution in the total amount of \$9,260.82, plus various court costs and fees.

Id.

7. Based on these factual findings, the Commission found cause to discipline Musa's insurance producer license pursuant to:

a. Section 375.141.1(6) because Musa pled guilty to and was convicted of three felonies.

b. Section 375.141.1(6) because Musa pled guilty to and was convicted of three crimes of moral turpitude.

c. Section 375.141.1(9) because Musa's insurance producer license was revoked in Illinois.

d. Section 375.141.1(2) because Musa violated § 375.141.6 when he failed to report the 2003 Stipulation within thirty days of the final disposition of the matter.

Id.

8. On May 14, 2014, the Commission certified the record of its proceeding to the Director pursuant to § 621.110.

9. On May 15, 2014, the Director sent Musa a Notice of Hearing via certified mail through the United States Postal Service, signature required, and by first class mail, both to 3246 Rand Lane, Belleville, Illinois, 62226, setting the disciplinary hearing for 10:00 a.m. on June 18, 2014, in the offices of the Department, 301 West High Street, Jefferson City, Missouri 65102. The notice sent by certified mail was returned as "Return to Sender – Unclaimed." The notice sent by first class mail did not come back as undelivered.

10. On June 18, 2014, the Director, through his hearing officer, Kelly A. Hopper, held the disciplinary hearing. *Disciplinary Hearing Transcript ("Tr.") at 5*. Musa did not appear, nor did any attorney appear on his behalf. *Tr. 6*. Tammy S. Kearns appeared on behalf of the Department's Division of Consumer Affairs ("Division"). *Tr. 5*.

11. At the hearing, the hearing officer admitted the Commission's certified record of proceedings into evidence as Exhibit 1. *Tr. 11*. The hearing officer also admitted the Notice of Hearing and tracking information from the United States Postal Service into evidence as Exhibit 2. *Tr. 11*.

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

13. The Director hereby incorporates the Commission's April 7, 2014 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. Nader Musa*, No. 13-1774 DI (Mo. Admin. Hrg. Comm'n Apr. 7, 2014).

14. After the disciplinary hearing, the Division submitted proposed findings of fact, conclusions of law and order of discipline.

Conclusions of Law

15. 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.

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 whether cause exists for the discipline, and then the agency exercises final decision making authority concerning the discipline to be imposed. *State Bd. of Reg'n for the Healing Arts v. Trueblood*, 368 S.W.3d 259, 267-68 (Mo. App. W.D. 2012).

18. 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;

* * *

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

* * *

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.

19. Section 375.141.4 provides, "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."

20. 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).

21. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000) (internal citations omitted).

22. The Administrative Hearing Commission has the authority to conduct hearings and make findings of fact and conclusions of law that cause exists to revoke an insurance producer license. § 621.110.

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

24. The Director has the discretion to discipline Musa's insurance producer license,

including the discretion to revoke that license. §§ 374.051.2, 375.141.1, and 621.110.

25. Musa took advantage of his former clients by lying to them and taking money from them for insurance premiums on non-existent policies when he was not even licensed to sell insurance.

26. In addition, the facts underlying Musa's three felony convictions, which were also crimes of moral turpitude, show that Musa cannot be trusted and Missouri consumers would be at risk if his license is not revoked.

27. Based on the nature and severity of the aforementioned conduct, sufficient grounds exist to revoke Musa's individual insurance producer license pursuant to § 375.141.1(2), (6), and (9).


28. This Order is in the public interest.

ORDER

Based on the foregoing findings and conclusions, the insurance producer license of **Nader Musa** (License Number 0147645) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 7th DAY OF NOVEMBER, 2014.




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

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2014, a copy of the foregoing Findings of Fact, Conclusion of Law and Order of Discipline was served upon the Applicant in this matter by UPS, signature required at the following address:

Nader Musa
3246 Rand Lane
Belleville, IL 62226

Tracking No. 1Z0R15W84293169471



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2619
Facsimile: 573.526.5492
Email: kathryn.latimer@insurance.mo.gov