



DEPARTMENT OF COMMERCE AND INSURANCE

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

In the Matter of:)	
)	Case No. 2208170607C
Raphael A. Rodriguez,)	
Applicant.)	

CONSENT ORDER

Chlora Lindley-Myers, Director, Department of Commerce and Insurance (“Director” of the “Department”), takes up the above matter for consideration and disposition. The Consumer Affairs Division (“Division”), through legal counsel Shelley A. Woods, and Applicant, Raphael A. Rodriguez, have reached a settlement in this matter and have consented to the issuance of this Consent Order.

1. Chlora Lindley-Myers is the duly appointed Director of the Department whose duties, pursuant to Chapters 374 and 375, RSMo,¹ include the supervision, regulation and discipline of insurance producers and business entity producers.

2. The Division has the duty of conducting investigations into the acts of insurance producers under the insurance laws of this state and is authorized by the Director to investigate and to recommend enforcement action for violations of the insurance laws of this state.

¹ All statutory references are to the 2016 Revised Statutes of Missouri, RSMo 2016, unless otherwise noted.

3. The Department originally issued Raphael A. Rodriguez (“Rodriguez”) an insurance producer license (No. 255241) on January 12, 1998. On January 12, 2020, Rodriguez’s license expired. Currently, Rodriguez’s license is inactive.

4. On December 31, 2019, Rodriguez submitted an electronic NAIC Uniform Application (“2020 Application”) to renew his insurance producer license.

5. In response to Background Question No. 1B, which asks if the applicant has ever had any felony charges or convictions that he had not previously reported to the Department, Rodriguez answered “Yes” and provided an explanation and certain documents.

6. The documents provided by Rodriguez with his 2020 Application indicated that on March 31, 2018, Rodriguez was charged with Delivery of Controlled Substance (marijuana) Except 35 Grams or Less of Marijuana or Synthetic Cannabinoid, in violation of § 579.020², a Class C Felony (Count 1); Possession of a Controlled Substance (cocaine) Except 35 Grams or Less of Marijuana or Synthetic Cannabinoid in violation of § 579.015, a Class D Felony (Count 2); and Unlawful Possession of A Firearm in violation of § 571.070, a Class D Felony (Count 3). *State of Missouri v. Raphael A. Rodriguez Jr.*, Morgan Cty. Cir. Ct., Case No. 18MG-CR00189-01.

7. The documents further indicated that on November 26, 2018, pursuant to a guilty plea, the Morgan County Circuit Court suspended imposition of any sentence on Count 2, but found Rodriguez guilty on Counts 1 and 3, sentencing him to ten years imprisonment on Count 1 and 7 years imprisonment on Count 3. The court determined that Rodriguez was a Prior Drug Offender as that term is used and defined in § 579.170. The court then suspended execution of the sentences imposed on Counts 1 and 3 and instead, sentenced Rodriguez to shock jail time and recommended that Rodriguez be placed in the 120-Day Treatment Program pursuant to § 559.115.3. The court further placed Rodriguez on supervised probation following the shock jail time and the 120-Day Treatment Program, to end on November 26, 2023. *Id.*

8. The first time Rodriguez notified the Department and the Director of his 2018 felony charges and convictions was when he disclosed them on his 2020 Application.

9. On January 14, 2020, Rodriguez withdrew his 2020 Application.

10. On or about March 9, 2022, Rodriguez submitted an electronic NAIC Uniform Application for Individual Producer License/Registration (“2022 Application”).

11. Background Question No. 1A. on his 2022 Application asks:

² Citations to the criminal statutes are to the provisions in effect at the time the crime was committed.

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor? You may exclude the following misdemeanor convictions or pending misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence, (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license. You may also exclude juvenile adjudications (offenses committed where you were adjudicated delinquent in a juvenile court)

12. Background Question No. 1B on Rodriguez's 2022 Application asks:

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony? You may exclude juvenile adjudications (offenses committed where you were adjudicated delinquent in a juvenile court)

13. Background Question No. 2 on Rodriguez's 2022 Application provides:

Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration? "Involved" means having a license censured, suspended, revoked, canceled, terminated; or being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. "Involved" also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee. If you answer yes, you must attach to this application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

14. Rodriguez answered "Yes" to both Background Question Nos. 1A and 1B and provided an explanation and documents pertaining to his criminal history, but he answered "No" to Background Question No. 2.

15. The documents provided were regarding the 2018 felony charges and convictions in Morgan County Circuit Court and further showed that on October 13, 2021, the Missouri Department of Corrections, Probation and Parole released Rodriguez from probation as authorized by § 217.703. *Id.*

16. In completing his 2020 and 2022 Applications, Rodriguez attested under penalty of perjury to the truthfulness and completeness of the information he provided in the Application, including his answers to the questions in the section relating to the applicant's criminal history.

17. Rodriguez's 2022 Application was forwarded to the Division for review. Angie Gross, Special Investigator ("Gross"), was assigned to investigate the 2022 Application.

18. During her investigation, Gross discovered that on December 13, 1999, Rodriguez was indicted in the United States District Court for the Western District of Missouri, Western Division with knowingly and intentionally combining, conspiring, confederating and agreeing with others to distribute ten (10) grams of more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), a schedule I controlled substance, contrary to the provisions of Title 21, United States Code, Section 841(a)(1) and (b)(1)(A), all in violation of Title 21, United States Code, Section 846. *United States of America v. Raphael A. Rodriguez*, U.S. Dist. Ct., W.D., Case No 99-00343-02-CR-W-4.

19. Gross further discovered that on July 24, 2000, pursuant to a March 7, 2000, guilty plea, the District Court found Rodriguez guilty and sentenced him to 36 months imprisonment and to five years supervised probation following his release from prison. On July 27, 2006, the United States District Court, Western District of Missouri, Probation Office notified Rodriguez that he had completed his sentence and was discharged from probation. *Id.*

20. Rodriguez has never notified the Department or the Director of the federal felony charge or conviction and did not disclose them on any of his renewal applications, including his 2020 Application, and his 2022 Application.

21. 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:

* * *

(1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

(3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;

* * *

(6) Having been convicted of a felony or crime involving moral turpitude[.]

* * *

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.

22. Rodriguez acknowledges and understands that under § 375.141.1(1) the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez intentionally provided materially incorrect, misleading, incomplete or untrue information on his 2020 and 2022 Applications by failing to disclose the charge and conviction for the federal felony of knowingly and intentionally combining, conspiring, confederating and agreeing with others to distribute ten (10) grams of more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), a schedule I controlled substance, contrary to the provisions of Title 21, United States Code, Section 841(a)(1) and (b)(1)(A), all in violation of Title 21, United States Code, Section 846. *United States of America v. Raphael A. Rodriguez*, U.S. Dist. Ct., W.D., Case No 99-00343-02-CR-W-4.

23. Rodriguez acknowledges and understands that under § 375.141.1(1) the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez intentionally provided materially incorrect, misleading, incomplete or untrue information on his 2022 Application by failing to disclose that he had withdrawn his 2020 Application in order to avoid a denial of his 2020 Application.

24. Rodriguez acknowledges and understands that under § 375.141.1(2), the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez failed to report his 2000 federal felony charge or conviction to the Director within thirty days of the initial pretrial hearing date in the federal criminal case in violation of § 375.141.7.

25. Rodriguez acknowledges and understands that under § 375.141.1(2), the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez failed to report his 2018 state felony charges and convictions to the Director within thirty days of the initial pretrial hearing date in that case in violation of § 375.141.7.

26. Rodriguez acknowledges and understands that under § 375.141.1(3) the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez attempted to obtain an insurance producer license through material misrepresentation or fraud by failing to disclose the charge and conviction for the federal felony of knowingly and intentionally combining, conspiring, confederating and agreeing with others to distribute ten (10) grams of more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), a schedule I controlled substance, contrary to the provisions of Title 21, United States Code, Section 841(a)(1) and (b)(1)(A), all in violation of Title 21, United States Code, Section 846. *United States of America v. Raphael A. Rodriguez*, U.S. Dist. Ct., W.D., Case No 99-00343-02-CR-W-4 on both his 2020 and 2022 Applications.

27. Rodriguez acknowledges and understands that under § 375.141.1(3) the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez attempted to obtain an insurance producer license through material misrepresentation or fraud by failing to disclose on his 2022 Application that he had withdrawn his 2020 Application in order to avoid a denial of his 2020 Application.

28. Rodriguez acknowledges and understands that under § 375.141.1(6) the Director may refuse to issue Rodriguez an insurance producer license because Rodriguez has been convicted of three felonies and crimes involving moral turpitude, specifically the charge and conviction for the federal felony of knowingly and intentionally combining, conspiring, confederating and agreeing with others to distribute ten (10) grams of more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), a schedule I controlled substance, contrary to the provisions of Title 21, United States Code, Section 841(a)(1) and (b)(1)(A), all in violation of Title 21, United States Code, Section 846. *United States of America v. Raphael A. Rodriguez*, U.S. Dist. Ct., W.D., Case No 99-00343-02-CR-W-4, Delivery of Controlled Substance (marijuana) Except 35 Grams or Less of Marijuana or Synthetic Cannabinoid, in violation of § 579.020, a Class C Felony and Unlawful Possession of A Firearm in violation of § 571.070, a Class D Felony, *State of Missouri v. Raphael A. Rodriguez Jr.*, Morgan Cty. Cir. Ct., Case No. 18MG-CR00189-01.

29. Rodriguez acknowledges and understands that he has the right to consult counsel at his own expense.

30. Rodriguez stipulates and agrees to waive any waivable rights that he may have to a hearing before the Administrative Hearing Commission or the Director and any rights to seek judicial review or other challenge or contest of the terms and conditions of this Consent Order and forever releases and holds harmless the Department, the Director

and her agents, and the Consumer Affairs Division from all liability and claims arising out of, pertaining to, or relating to this matter.

31. Rodriguez acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other states. Rodriguez further acknowledges and understands that this administrative action should be disclosed on future Renewals, if required, and that it is his responsibility to comply with the reporting requirements of each state in which he is licensed.

32. Each signatory to this Consent Order certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to accept the terms and provisions of this Consent Order in their entirety, and agrees, in his or her personal or representational capacity, to be bound by the terms of this Consent Order.

Conclusions of Law

33. The actions admitted by Rodriguez are grounds to refuse his resident insurance producer license pursuant to § 375.141.1(1), (2), (3), and (6).

34. The Director may impose orders in the public interest under § 374.046.

35. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

ORDER

IT IS HEREBY ORDERED that the Director will grant Raphael A. Rodriguez's insurance producer license subject to the conditions set forth herein.

1. Raphael A. Rodriguez shall respond to all inquiries and consumer complaints forwarded or otherwise communicated to him by the Department of Commerce and Insurance within five business days of receipt. Such response shall only be by Raphael A. Rodriguez personally or by and through an attorney representing Raphael A. Rodriguez.

2. Raphael A. Rodriguez shall report to the Department of Commerce and Insurance any arrest, guilty plea, nolo contendere plea, finding of guilt or conviction concerning a felony, misdemeanor, or crime of moral turpitude, within five business days of such arrest, citation, plea or finding.

3. Raphael A. Rodriguez shall report to the Department of Commerce and Insurance any violation of or failure to comply with the laws set forth in Chapters 374, 375, and 376 and 379, RSMo, and all regulations promulgated thereunder within five business days of such violation or failure to comply.

4. Raphael A. Rodriguez shall report to the Department any administrative action taken against him in another jurisdiction or by another governmental agency in this

state within five business days after he receives notification of the initiation of such administrative action.

5. For two years subsequent to the date of this executed Consent Order, Raphael A. Rodriguez will voluntarily surrender his license to the Department within 30 days of his entry of a guilty plea, nolo contendere plea, finding of guilt, or conviction for a felony or crime of moral turpitude.

6. Raphael A. Rodriguez shall execute and submit any necessary documents to provide the Department access to Rodriguez's probation and court records.

7. Within ten (10) days of the date the Director enters this Order, Raphael A. Rodriguez shall read and reviewed Chapters 374, 375, 376 and 379 and Missouri Regulations 20 CSR 100-6; 20 CSR 400; 20 CSR 500 and 20 CSR 700. Once he has completed that review, Raphael A. Rodriguez shall complete and return the attached affidavit within twenty-four hours of completing the review.

8. Raphael A. Rodriguez shall pay the total amount of one thousand two hundred dollars (\$1200.00) as a civil penalty or forfeiture as authorized by § 374.046.15, and pursuant to §§ 374.280 and 375.145, payable to the State School Fund for the above-described violations.

9. The special conditions listed in paragraphs 1 through 8, outlined above, will expire five years from the date this Order is issued.

IT IS FURTHER ORDERED that the civil penalty/forfeiture payment shall be due immediately and payable by money order or cashier's check to the State School Fund, and shall be forwarded with this executed Consent Order to the attention of Shelley A. Woods, Missouri Department of Commerce and Insurance, P.O. Box 690, Jefferson City, Missouri, 65102. Any correspondence and/or money order or cashier's checks shall reference the case name and number appearing at the top of this Order. The Director shall forward these funds to the state treasury for the benefit of school fund as provided in §§ 374.049.11 and 374.280.2, and Article IX, Section 7 of the Constitution of Missouri.

IT IS FURTHER ORDERED that the Director may pursue additional legal remedies, as necessary and without limitation, as authorized by Chapters 374, 375, 376 and 379, RSMo, including remedies for violation of, or failure to comply with, the terms of this Consent Order.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 26th DAY OF September, 2022.



Chlora Lindley-Myers

CHLORA LINDLEY-MYERS

Director, Missouri Department of
Commerce and Insurance

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Raphael A. Rodriguez has the right to a hearing, but that Raphael A. Rodriguez has waived the hearing and consented to the issuance of this Consent Order.

Raphael A. Rodriguez

Raphael A. Rodriguez
3424 Baltimore Avenue.
Kansas City, Missouri 64111
Applicant

9-15-2022

Date

Counsel for Raphael A. Rodriguez
Name: _____
Missouri Bar No. _____
Address: _____
Telephone: _____

Date

Shelley A. Woods

Shelley A. Woods
Counsel for Consumer Affairs Division

September 21, 2022

Date

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