



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

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

IN RE:)
) **DIFP Case No. 150819402C**
PIERRE ANDRE BINGAMAN II,)
) **AHC Case No. 16-3800**
Respondent.)

**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 (Supp. 2013)¹ include the supervision, regulation, and discipline of insurance producers in the State of

¹ All civil statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

Missouri.

2. On January 9, 1996, the Director of the Department issued Respondent Pierre Andre Bingaman II (“Bingaman”) an insurance agent license (License No. 0202233; National Producer Number 4878648). Bingaman’s individual resident insurance producer license expired on January 9, 2016.²

3. On November 18, 2016, the Director filed a Complaint with the Administrative Hearing Commission (“Commission”) pursuant to § 621.045, by which she sought the Commission’s findings of fact and conclusions of law that cause exists to discipline Bingaman’s individual resident insurance producer license.

4. On December 9, 2016, the Department received a service packet from the Commission that requested the Director attempt to serve Bingaman with the Complaint.

5. Bingaman was served with the Complaint on December 14, 2016, but neither Bingaman nor anyone on his behalf filed an answer.

6. On May 26, 2017, the Director filed a Motion for Summary Decision. The Commission gave Bingaman until June 12, 2017 to file a response, but he filed nothing.

7. On June 22, 2017, the Commission issued its Decision finding cause to discipline Bingaman’s individual resident insurance producer license pursuant to § 375.141.1(2) and (12). *Dir., Dep’t of Ins., Fin. Insts. & Prof’l Regis’n v. Pierre Andre Bingaman II*, Case No. 16-3800 (Mo. Admin. Hrg. Comm’n).

² Pursuant to L. 2001, SB 193 (91st Gen. Assem., 1st Reg. Sess.), effective January 1, 2003, the Department converted Missouri insurance agent licenses, such as that initially held by Bingaman, to insurance producer licenses. See also § 375.012.3.

8. In its Decision, the Commission found the following facts, among others:
- a. On November 7, 2011, the Department of Revenue issued a certificate of tax lien against Bingaman for his failure to pay individual income tax for the years 2004 through 2008. That certificate of lien was filed with the Recorder of Deeds and the Circuit Court of Jackson County on November 7, 2011.
 - b. On January 3, 2014, the Department of Revenue issued a certificate of tax lien against Bingaman for his failure to pay individual income tax for the year 2009. That certificate of lien was filed with the Recorder of Deeds and the Circuit Court of Jackson County on January 3, 2014.
 - c. On July 7, 2014, the Director's licensing manager, Brenda Otto, notified Bingaman by letter sent to his residential address of record that his individual resident insurance producer license was suspended by operation of law due to his failure to pay or failure to file Missouri state income taxes. This letter warned Bingaman that he was prohibited by law from acting as an insurance producer in this state while his license was suspended. In addition, it informed Bingaman that he must provide a certification of tax compliance letter from the Missouri Department of Revenue to have his license reactivated.
 - d. After his license was suspended, Bingaman sold or solicited insurance policies written by Colonial Penn Life Insurance Company on the following occasions:

- i. July 10, 2014, when he sold a Medicare Supplement Insurance Policy High Deductible Plan F to W.W.;³
- ii. July 11, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to M.T.;
- iii. July 30, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to C.M.;
- iv. July 31, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to S.S.;
- v. August 6, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to L.H.;
- vi. August 6, 2014, when he sold a Medicare Supplement Insurance Policy Plan G to J.H.;
- vii. August 15, 2014, when he sold a Medicare Supplement Insurance Policy Plan G to W.E.;
- viii. August 19, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to B.M.;
- ix. August 27, 2014, when he sold a Medicare Supplement Insurance Policy Plan G to R.H.;
- x. August 27, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to D.B.;
- xi. August 27, 2014, when he sold a Medicare Supplement Insurance Policy Plan G to V.H.;
- xii. August 28, 2014, when he sold a Medicare Supplement Insurance Policy High Deductible Plan F to C.H.;
- xiii. August 29, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to L.B.;
- xiv. September 3, 2014, when he sold a Medicare Supplement Insurance Policy Plan N to W.C.;
- xv. September 3, 2014, when he sold a Medicare Supplement Insurance Policy Plan G to W.E.;⁴

³ Consumers' identities are protected by the use of their initials.

⁴ Bingaman sold two (2) policies to W.E.

- xvi. September 5, 2014, when he sold a Medicare Supplement Insurance High Deductible Plan F to G.G.;
- xvii. September 16, 2014, when he sold a Medicare Supplement Insurance Plan N to H.C.;
- xviii. September 18, 2014, when he sold a Medicare Supplement Insurance Plan N to J.H-D.;
- xix. December 16, 2014, when he sold a Medicare Supplement Insurance Plan N to R.A.;
- xx. December 18, 2014, when he sold a Medicare Supplement Insurance Plan N to G.E.;
- xxi. December 18, 2014, when he sold a Medicare Supplement Insurance Plan N to V.E.;
- xxii. January 8, 2015, when he sold a Medicare Supplement Insurance Plan N to M.H.;
- xxiii. January 16, 2015, when he sold a Medicare Supplement Insurance Plan N to C.P.;
- xxiv. January 16, 2015, when he sold a Medicare Supplement Insurance Plan N to M.P.;
- xxv. January 20, 2015, when he sold a Medicare Supplement Insurance Plan N to B.J.;
- xxvi. January 20, 2015, when he sold a Medicare Supplement Insurance High Deductible Plan F to H.G.;
- xxvii. January 22, 2015, when he solicited the sale of a Medicare Supplement Insurance Plan N to S.W.;
- xxviii. January 23, 2015, when he sold a Medicare Supplement Insurance Plan N to S.W.;
- xxix. January 23, 2015, when he sold a Medicare Supplement Insurance Plan N to C.P.;⁵ and
- xxx. January 30, 2015, when he sold a Medicare Supplement Insurance

⁵ Bingaman sold policies to two (2) different individuals with the same initials on January 16, 2015 and January 23, 2015, respectively.

High Deductible Plan F to L.H.⁶

- e. Bingaman never provided a certification from the Department of Revenue to the Director that he had cured his unpaid tax obligations. Therefore, his license remained suspended until it expired on January 9, 2016.

Id.

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

- a. Section 375.141.1(2) because Bingaman violated § 375.014.1, an insurance law; and
- b. Section 375.141.1(12) because Bingaman knowingly acted as an insurance producer when he was not licensed. Bingaman's insurance producer license was suspended on July 7, 2014, pursuant to § 324.010, which provides, in relevant part:

All governmental entities issuing professional licenses ... pursuant to ... section 375.014 ... shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be suspended within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy[.]

⁶ Bingaman sold two (2) policies to L.H.

Bingaman's sale of twenty-nine (29) insurance contracts and solicitation of one contract between July 10, 2014 and January 30, 2015, indicates that he knowingly acted as an insurance producer while his license was suspended.

Id.

10. On July 26, 2017, the Commission certified the record of its proceeding to the Director pursuant to § 621.110. *See Disciplinary Hearing Exhibit 1, Certified Record of Administrative Hearing Commission proceedings in Dir., Dep't of Ins., Fin. Insts. & Prof'l Regis'n v. Pierre Andre Bingaman II, Case No. 16-3800.*

11. On August 7, 2017, the Department sent Bingaman a Notice of Hearing by certified U.S. Mail to 13842 West 153rd Terrace, Olathe, Kansas 66062, which had been Bingaman's address of record in this proceeding. On August 10, 2017, the Notice of Hearing mailed on August 7, 2017 was returned to the Department.

12. On August 15, 2017, the Department sent Bingaman the Notice of Hearing by certified U.S. Mail to 10302 West 172nd Terrace, Overland Park, Kansas 66221. On August 22, 2017, the Notice of Hearing was delivered to Bingaman.

13. On August 30, 2017, the Director, through her Hearing Officer Stephanie Pierce, held a Disciplinary Hearing to determine the appropriate disciplinary action, if any, to be taken against Bingaman's resident insurance producer license. *Disciplinary Hearing Transcript ("Tr.")* at 4. Neither Bingaman nor anyone on his behalf appeared; however, Shelly Krueger appeared on behalf of the Department's Consumer Affairs Division ("Division"). *Id.* at 4 – 5.

14. At the Disciplinary Hearing, the Hearing Officer admitted the Commission's

certified record of its proceeding into evidence as Exhibit 1, a copy of the Notice of Hearing sent to Bingaman as Exhibit 2, and the certified mail returned receipt bearing the signature of Pierre Bingaman as Exhibit 3. *Id.* at 7 – 8.

15. At the Disciplinary Hearing, the Division recommended revocation of Bingaman’s expired resident insurance producer license. *Id.* at 6.

16. 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 August 31, 2017.

17. Bingaman has filed no proposed findings of fact, conclusions of law and order, or any other response to the Hearing Officer pursuant to her Order Setting Briefing Schedule issued on August 31, 2017.

18. The Director hereby incorporates the Commission’s June 22, 2017 Decision referenced herein and finds in accordance with the same.⁷ *Dir., Dep’t of Ins., Fin. Insts. & Prof’l Regis’n v. Pierre Andre Bingaman II*, Case No. 16-3800 (Mo. Admin. Hrg. Comm’n).

CONCLUSIONS OF LAW

19. 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]

⁷ Except the Director finds that Bingaman sold 29 insurance contracts between July 10, 2014 and January 30, 2015, which was after his license was suspended on July 7, 2014.

* * *

(12) Knowingly acting as an insurance producer when not licensed or accepting insurance business from an individual knowing that person is not licensed[.]

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.

20. Section 375.014.1, an insurance law, provides:

No person shall sell, solicit or negotiate insurance in this state for any class or classes of insurance unless he or she is licensed for that line of authority as provided in this chapter.

21. Section 375.012 provides, in relevant part:

As used in Sections 375.012 to 375.158, the following words mean:

* * *

(15) "Sell", to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company;

(16) "Solicit", attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company[.]

22. 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 by filing 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.

23. 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[.]

24. 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 Director exercises final decision-making authority concerning the discipline to be imposed. *State Bd. of Regis'n for the Healing Arts v. Trueblood*, 368 S.W.3d 259, 267-68 (Mo. App. W.D. 2012) (citing § 621.110).

25. 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.

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

27. The Director has the discretion to discipline Bingaman's license, including the discretion to revoke that license. Sections 374.051.2, 375.141.1, and 621.110.

28. The expiration of Bingaman's license does not frustrate the Director's authority to impose discipline. Section 375.141.4.

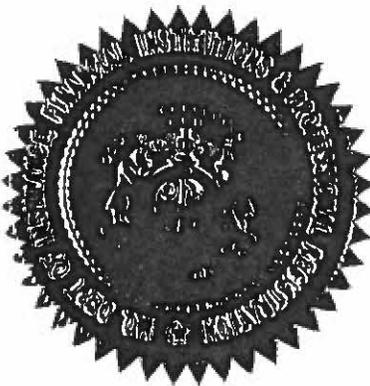
29. Based on the Commission's findings of cause for discipline and the seriousness of the conduct involved, revocation of Bingaman's expired resident insurance producer license pursuant to § 375.141.1(2) and (12) is appropriate.

30. This Order is in the public interest.

ORDER

Based on the foregoing findings and conclusions, the expired resident insurance producer license of **Pierre Andre Bingaman II**, number 0202233, is hereby **REVOKED**.

SO ORDERED, SIGNED, AND OFFICIAL SEAL AFFIXED THIS 20th DAY OF OCTOBER, 2017.



A handwritten signature in cursive script that reads "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 20th day of October, 2017, a true and complete copy of the foregoing was served in this matter by UPS, signature required, to the following address:

Pierre Andre Bingaman II
10302 West 172nd Terrace
Overland Park, Kansas 66221

Tracking No. 1Z0R15W84297993626



Kathryn Latimer, Paralegal
Missouri Department of Insurance, Financial
Institutions and Professional Registration
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Telephone: 573.751.2619
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Kathryn.Latimer@insurance.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2017, a true and complete copy of the foregoing was served in this matter by USPS, first class mail, to the following address:

Pierre Andre Bingaman II
10302 West 172nd Terrace
Overland Park, Kansas 66221



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