State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &
PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Michelle Erlinda Valadez,	)	**Case No. 07A000440**
	)	
Applicant.		

REFUSAL TO ISSUE NON-RESIDENT INSURANCE PRODUCER LICENSE

On October 1, 2009, Mary S. Erickson, Senior Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue a non-resident insurance producer license to Michelle Erlinda Valadez. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and summary order:

FINDINGS OF FACT

1. Michelle Erlinda Valadez ("Valadez") is an individual residing in the state of California.

2. On or about October 17, 2006, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received Valadez's electronic Non-Resident Application for her individual insurance producer license ("Application").

3. The Application lists Valadez's Residence as 9623 Rushmore St., Pico Rivera, CA 90660, and her Mailing Address and Business Addresses as 6301 Owensmouth Ave. 720, Woodland Hills, CA 91367.

4. In the section of the Application entitled "Background Questions," Background Question No. 1 asks "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

5. Valadez answered "Yes" to Background Question No. 1.

6. On January 29, 2007, Consumer Affairs Division Special Investigator Ronald D. Harrod ("Special Investigator Harrod") mailed Valadez a letter requesting more information regarding the conviction, including certified copies of the pending charging document. Investigator Harrod required a response from Valadez at her earliest convenience.

7. On June 6, 2007, Valadez provided a brief written response via facsimile from the

California insurance agency where she was then employed. Valadez indicated that, in 1988, she had a misdemeanor for petty theft, for which she paid a fine.

8. In her June 6, 2007 response, Valadez also indicated that she was currently "paying a fine for a case where I documented forms incorrectly when I had been on Assistance with the state back in 2001. . . . I was unaware that if I was in training that I had to document that as employment." She explained that she had not been convicted of any crime. "If I plead guilty, than (*sic*) I can have a document, but than (*sic*) it will be on my record as opposed to dismissed once fine paid." Valadez mentioned a November 8, 2007 court date.

9. On July 6, 2007, Special Investigator Harrod sent a letter to the resident address of Valadez requesting certified copies of court documents regarding the pending charges against her in California. The letter was not returned by the U.S. Postal Service as undeliverable.

10. Valadez never responded to the July 6, 2007 request for information from Special Investigator Harrod.

11. On January 16, 2009, the California Insurance Commissioner issued a Default Decision and Order of Revocation against Valadez revoking her license as a fire and casualty broker-agent and her license to act as a personal lines broker-agent in the State of California. *In the Matter of the Licenses and Licensing Rights of Michelle Erlinda Valadez,* California Department of Insurance, No. LBB 5018-AP (AR).

12. According to the Accusation filed in *In the Matter of the Licenses and Licensing Rights of Michelle Erlinda Valadez,* California Department of Insurance, No. LBB 5018-AP (AR), on or about May 8, 2008, in Case No. BA277593, in the Superior Court of Los Angeles County, Valadez pleaded guilty to receiving aid by misrepresentation, a misdemeanor, in violation of § 10980(c)(2) of the California Welfare and Institutions Code. The Accusation further averred that pursuant to § 2183.2(b)(1), Title 10, of the California Code of Regulations, "said dishonesty or fraud conviction is substantially related to the qualifications, functions, or duties of an insurance licensee."

CONCLUSIONS OF LAW

13. Section 375.141 RSMo (Supp. 2008)[1] provides, in 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:
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> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

[1] All statutory references are to RSMo (Supp. 2008) unless otherwise indicated.

* * *

(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[.]

14. 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

> (A) 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.
>
> (B) This rule shall not apply to any other statute or regulation which requires a different time period for a person to respond to an inquiry by the department. If another statute or regulation requires a shorter response time, the shorter response time shall be met. This regulation operates only in the absence of any other applicable laws.

15. A crime involving "moral turpitude" is a crime involving "an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowman or to society in general, contrary to the accepted and customary rule of right and duty between man and man; everything 'done contrary to justice, honesty, modesty, and good morals'." *In re Frick*, 694 S.W.2d 473, 479 (Mo. banc 1985).

16. The principal purpose of § 375.141 RSMo is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

17. Valadez may be refused a non-resident insurance producer license pursuant to § 375.141.1(9) because she had an insurance producer license, or its equivalent, revoked by the California Department of Insurance on January 16, 2009.

18. Valadez may be refused a non-resident insurance producer license pursuant to § 375.141.1(6) because the crime of receiving state aid by misrepresentation is contrary to justice, honesty, and good morals, and is, therefore, a crime of moral turpitude. Crimes involving fraud and false pretenses are crimes of moral turpitude. *Frick,* 670 S.W.2d at 479.

19. Valadez failed to respond to a Consumer Affairs Division's inquiry regarding the then-pending criminal charge against her as required by 20 CSR 100-4.100. This failure to

respond constitutes cause to refuse to issue a non-resident insurance producer license under § 375.141.1(2) for violating 20 CSR 100-4.100.

20. The Director has considered Valadez's history and all of the circumstances surrounding her Application. Valadez has had an insurance producer license, or its equivalent, revoked in another state, pleaded guilty to a crime of moral turpitude, and failed to respond to an inquiry from the Consumer Affairs Division. Therefore, granting Valadez a non-resident insurance producer license would not be in the interest of the public. For all of the reasons stated in this Order, the Director exercises his discretion by refusing to issue Valadez a non-resident insurance producer license.

21. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the non-resident insurance producer license of MICHELLE ERLINDA VALADEZ is hereby summarily **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 6th DAY OF OCTOBER, 2009.

JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2009, a copy of the foregoing Notice and Order was served upon the Applicant in this matter by certified mail No. 7006 0100 0005 2090 6556.

Karen Crutchfield

Karen Crutchfield
Senior Office Support Staff