State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
Rebecca Zamora,	)	Case No. 08A000701
	)	
f/k/a or a/k/a Rebecca Gamboa,	)	
f/k/a or a/k/a Rebecca Lazaro,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
Rebecca Zamora	)	
Gerber Life Insurance	)	
445 State Street	)	
Fremont, Michigan 49412	)	
	)	
OR	)	
	)	
492 Sunset Drive	)	
Newaygo, Michigan 49337	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On May 22, 2009, Andy Heitmann, Enforcement Counsel and Counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Rebecca Zamora. 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. Rebecca Zamora is an individual residing in Michigan. According to her Application, Zamora has also been known by the names "Rebecca Gamboa" and "Rebecca Lazaro." Throughout this Order, "Zamora" shall refer to the applicant under her previous names or aliases as well as under the name used on her Application.

2. On or about September 15, 2008, the Department of Insurance, Financial Institutions & Professional Registration ("Department") received the electronic Non-Resident Individual Producer License Application of Zamora ("Application").

3. A printout from the National Insurance Producer Registry (NIPR), through whose website Zamora electronically submitted her Application, shows that Zamora filled out the Application using the name "Rebecca Patricia Zamora," and listed "Rebecca Gamboa" and "Rebecca Lazaro" as "Previously/Formerly Known As" names.

4. Zamora listed her residence address on the Application as 492 Sunset Drive, Newaygo, Michigan, 49337, and her mailing address, at Gerber Life Insurance, as 445 State Street, Fremont, Michigan, 49412 (which she also listed as her business address).

5. At no time after she submitted her Application did Zamora inform the Department of any change in her address.

6. In the section of the Application headed "Background Questions," Background Question # 1 asks "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"

7. Zamora answered Background Question # 1 with a "Yes."

8. At or near the same time Zamora submitted her Application, she also sent the Department a letter explaining that on or about April 19, 2008, she had been caught attempting to bring two minor citizens of Mexico across the border illegally into the United States and that she pleaded guilty to a misdemeanor count stemming from this act.

9. At or near the same time Zamora submitted her Application and sent her letter of explanation, she also sent the Department uncertified copies of the charging documents related to her misdemeanor plea. Those documents appeared to show that on April 21, 2008, Zamora pleaded guilty to a misdemeanor violation of 18 U.S.C. § 1325(a)(3) and was sentenced to time served.

10. The Department requires certified copies of the charging document(s) and document(s) showing resolution of the charges whenever an applicant answers "yes" to Background Question # 1, so that the Department may accurately determine the nature and significance of the applicant's criminal history in weighing whether to grant the applicant a license. Accordingly, on October 6, 2008, Les Hogue ("the Investigator"), a Special Investigator for the Department, mailed by first class mail to Zamora's residence address a letter, postmarked October 6, 2008, requesting certified copies of the charging document and the document showing resolution of the charges in her misdemeanor case.

11. On November 4, 2008, having received no response to his October 6, 2008 letter, the Investigator sent by first class mail a second letter, postmarked November 4, 2008, to Zamora's residence address, again requesting the certified documents required as part of the application process when an applicant answers "yes" to Background Question # 1. The Investigator requested a response to this second letter by November 14, 2008.

12. On or about January 20, 2009, having received no response to the Investigator's November 4, 2008 letter, and not having received the requested certified copies of the

charging document(s) and document(s) showing resolution of the charges, the Department mailed by certified mail a Subpoena Duces Tecum to Zamora's residence address, ordering Zamora to appear before the Director or his appointee on February 19, 2009 for an investigation conference under oath ("Subpoena Conference").

13. On or about February 4, 2009, the Department received the certified mail delivery receipt (U.S. Postal Service Form 3811, known as a "green card"), bearing the signature of Rebecca Zamora, and indicating delivery to Zamora of the certified mailing containing the Subpoena Duces Tecum on January 30, 2009.

14. On or about February 11, 2009, the Investigator mailed by first class mail to Zamora at her residence address a reminder letter, reminding Zamora of the Subpoena Conference on February 19, 2009.

15. On February 19, 2009, the Investigator, as the Director's appointee, attempted to hold the scheduled Subpoena Conference, but Zamora failed to appear as ordered. The Investigator testified under oath to establish that the Subpoena Conference was attempted.

16. The Consumer Affairs Division has received no further response or cooperation from Zamora since the attempted Subpoena Conference.

CONCLUSIONS OF LAW

17. Section 375.141, RSMo (Supp. 2008) 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;
> ...

18. 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(2) Except as required under subsection (2)(B)—

> (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.

19. Section 374.210.2, RSMo (Supp. 2008), provides, in relevant part:

The director may also suspend, revoke or refuse any license ... issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

20. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

21. The principal purpose of § 375.141, RSMo (Supp. 2008), is not to punish licensees, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo.App. E.D. 1984).

22. Zamora twice failed to respond as required by 20 CSR 100-4.100 to Division of Consumer Affairs inquiries regarding her criminal history. These failures each constitute cause under § 375.141.1(2), RSMo (Supp. 2008), § 374.210.2, RSMo (Supp. 2008), and 20 CSR 100-4.100 for this Department's refusal to license Zamora.

23. Zamora has not demonstrated to the Department any justification for her failure to respond to the Department's investigative inquiries within the time required by 20 CSR 100-1.400.

24. The Director ordered Zamora by Subpoena Duces Tecum to appear at the Department to testify concerning her criminal history and to produce documents containing information necessary to decide her Application on its merits. Zamora failed to appear and failed to contact the Department to reschedule the subpoena conference. Zamora's failure to appear is a failure to obey an order of the Director and constitutes cause to refuse Zamora's license under both § 375.141.1(2) (Supp. 2008) and § 374.210.2, RSMo (Supp. 2008).

25. The Director has considered Zamora's history and all of the circumstances surrounding Zamora's Application. Zamora's failures to cooperate with this Department in the licensure process and her failure to obey an order of the Director provoke doubt about her willingness to conform to this state's insurance laws and regulations. For these reasons, the Director exercises his discretion in refusing to license Zamora.

26. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of Rebecca Zamora is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 11TH DAY OF JUNE, 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.

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June, 2009, a copy of the foregoing notice and order was served upon Zamora in this matter by certified mail.

Karen Crutchfield
Karen Crutchfield
Senior Office Support Staff