State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:	)	
	)	
	)	**Case No. 10-0407425C**
Delfina Garcia Gonzalez,	)	
	)	
Applicant.	)	
	)	
Serve at:	)	
	)	
3000 Cardinal Circle	)	
Sedalia, Missouri 65301	)	

REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE

On April 22, 2010, Tamara W. Kopp, Senior 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 Delfina Garcia Gonzalez. 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:

FACTUAL BACKGROUND

1. Delfina Garcia Gonzalez ("Gonzalez") is an individual residing in Missouri, whose mailing address of record is 3000 Cardinal Circle, Sedalia, Missouri 65301.

2. After at least two unsuccessful attempts, Gonzalez successfully passed the Property & Casualty insurance producer license examination on January 7, 2010.

3. On January 11, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic Uniform Application for Individual Insurance Producer License ("Application") from Gonzalez.

4. On or about January 14, 2010, Monty Murphy, AAA Insurance Regional Sales Manager (License No. 866648) contacted the Department's Licensing Section questioning the validity of Gonzalez's license. Mr. Murphy had recently hired Gonzalez for a sales position in December 2009. Mr. Murphy alleged that Gonzalez had submitted a suspicious license certificate. The suspicious license certificate had an issue date of December 14, 2009, and an expiration date of November 17, 2011, under the name "Delfina Garcia."

5. On or about January 20, 2010, the Licensing Section reviewed the suspicious license certificate and noted several discrepancies that suggested the license certificate was not authentic. Those discrepancies included:

    a. As of April 1, 2009, all Missouri insurance producer licenses are printed on white paper. The certificate allegedly submitted by Gonzalez appears to be printed on blue security paper.
    b. After multiple attempts, Gonzalez did not pass the Property & Casualty insurance producer license examination until January 7, 2010.
    c. Gonzalez did not submit an electronic license application until January 11, 2010.

6. On February 18, 2010, Gonzalez appeared before the Department's Consumer Affairs Division for a subpoena conference where she claimed to have never seen the suspicious license certificate provided to the Department by Mr. Murphy. Gonzalez offered no explanation regarding how Mr. Murphy obtained the suspicious license certificate or who may have created it.

7. Following the February 18, 2010 subpoena conference, Special Investigator Dennis Fitzpatrick mailed a letter to Gonzalez, at her address of record, requiring that Gonzalez "provide a copy of all documents and correspondence that [she] presented to AAA Insurance Company during [her] job interview process." The February 18, 2010 letter required that Gonzalez submit the requested copies by March 3, 2010. To date, Gonzalez has not submitted the requested documents or contacted the Department in any way to provide a reasonable justification for her delayed response.

CONCLUSIONS OF LAW

8. Section 375.141.1, RSMo (Supp. 2009), provides, in part:

> 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;
>
> * * *
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

* * *

9. Section 374.210.2, RSMo (Supp. 2009) provides, in part:

* * *

> The director may also suspend, revoke or refuse any license or certificate of authority 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.

10. Regulation 20 CSR 100-4.100 Required Response to Inquiries by the Consumer Affairs Division, provides, in 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.

11. The principal purpose of § 375.141, RSMo, 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).

12. Gonzalez may be refused an insurance producer license pursuant to § 375.141.1(8), RSMo (Supp. 2009), because by submitting a fraudulent certificate of licensure to AAA Insurance Company she used fraudulent, coercive, or dishonest practices, and demonstrated untrustworthiness in the conduct of business in the state of Missouri.

13. Gonzalez may be refused an insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2009), for failing to respond to the February 18, 2010 Consumer Affairs Division inquiry in violation of regulation 20 CSR 100-4.100 Required Response to Inquiries by the Consumer Affairs Division.

14. Gonzalez may be refused an insurance producer license pursuant to § 374.210.2, RSMo (Supp. 2009), for failing to produce records as requested by the Department's Consumer Affairs Division.

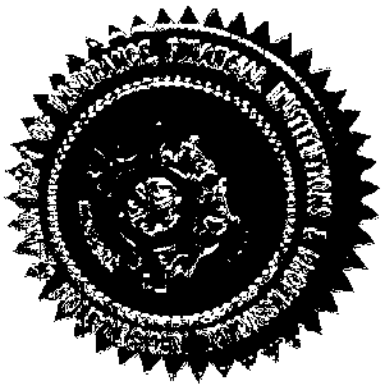
15. The Director has considered all the circumstances surrounding Gonzalez's Application and has exercised his discretion in summarily refusing to grant Gonzalez's license.

16. Granting Gonzalez's insurance producer license would not be in the public interest. This order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license application of Delfina Garcia Gonzalez is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 26th **DAY OF APRIL, 2010.**



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, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 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 27th day of April, 2010, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 70041350000314135102 at the following address:

Dellina Garcia Gonzalez
3000 Cardinal Circle
Sedalia, Missouri 65301

Kathryn Randolph