State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

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IN THE MATTER OF:	)	
	)	
	)	Case No. 110224251C
Melinda F. Flores,	)	
	)	
Applicant.	)	
Serve at:	)	
	)	
851 Poleline Road	)	
Twin Falls, Idaho 83301-3037	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On February 28, 2011, 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 Melinda F. Flores' non-resident insurance producer license. 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. Melinda Flores ("Flores"), formerly known as Melinda F. Thurman, is an individual residing in Idaho. Her mailing and business address is 851 Poleline Road, Twin Falls, Idaho 83301-3037. Flores' residential address is 451 4th Avenue E, Twin Falls, Idaho 83301-6514.

2. On October 18, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic non-resident insurance producer application ("Application") from Flores.

3. On the Application, in the section titled "Background Questions," Background Question # 1 asks, "Have you ever been convicted of a crime, had a judgement withheld or deferred, or are you currently charged with committing a crime?" Flores answered "Yes." to Background Question # 1.

4. Flores disclosed with her Application that she was arrested and charged with felony methamphetamine possession in February 2010. *State of Idaho v. Melinda Thurman*, Case No. CR-2010-0001597. The court

records Flores submitted with her Application show that, on March 22, 2010, Flores pleaded guilty and was ordered to participate in Drug Court, which according to Flores, may take fifty-two weeks. According to Flores, if she completes the Drug Court Program, the prosecutor will dismiss the pending felony charge.

5. On October 26, 2010, the Wisconsin Office of the Commissioner of Insurance denied Flores' application for a permanent individual intermediary agent's insurance license based on Flores' pending felony charge. The Wisconsin Office of the Commissioner of Insurance concluded that Flores' pending felony charge was evidence of untrustworthiness or incompetence. *See Denial of License Application,* Case No. 10-C33451, October 26, 2010.

6. On October 27, 2010, Consumer Affairs Division Special Investigator Karen Crutchfield sent a letter to Flores at Flores' mailing address by first class mail. The letter requested that Flores provide a certified record concerning her pending felony charge and required a response on or before November 17, 2010. The letter was not returned as undeliverable. Flores did not respond and did not contact the Division in any way to demonstrate a reasonable justification for her failure to respond.

7. On November 19, 2010, Investigator Crutchfield sent a letter to Flores at Flores' residential address by certified mail. The letter again requested a certified record concerning Flores' pending felony charge. The letter was returned to the Division as "Unclaimed."

8. On December 14, 2010, Investigator Crutchfield sent an email to the company contact Flores listed on her Application. Nancy Duncan, Licensing and Compliance Manager for C3/CustomerContactChannels, responded and stated that she had forwarded Investigator Crutchfield's inquiry to Flores.

9. Investigator Crutchfield's email inquiry required Flores' response by January 4, 2011. However, Flores did not respond and did not contact the Division in any way to demonstrate a reasonable justification for her failure to respond.

10. On December 21, 2010, Investigator Crutchfield sent a letter to Flores at her mailing address by certified mail. The letter required a response on or before January 11, 2011. The letter was claimed on December 28, 2010 by Jessica Viglienzoni as "Agent." Flores did not respond and did not contact the Division in any way to demonstrate a reasonable justification for a delayed response.

11. On January 12, 2011, Investigator Crutchfield sent a letter to Flores at her residential address by first class mail. The letter again asked Flores to provide a certified record concerning her pending felony charge and required a response on or before February 2, 2011. The letter was not returned as undeliverable. Flores did not respond and did not contact the Division in any way to demonstrate a reasonable justification for her failure to respond.

CONCLUSIONS OF LAW

12. Section 375.141 RSMo (Supp. 2010),[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:
>
> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

13. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division provides:

> 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.

14. "There is a presumption that a letter duly mailed has been received by the

[1] All statutory references are to the Revised Statutes of Missouri (Supp. 2010) unless otherwise noted.

addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

15. 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. 1984).

16. The Director may refuse Flores' insurance producer license Application pursuant to § 375.141.1(9) because the Wisconsin insurance regulator refused Flores' insurance producer license or its equivalent. *See Denial of License Application*, Case No. 10-C33451, October 26, 2010.

17. The Director may refuse Flores' insurance producer license Application pursuant to § 375.141.1(2) because by failing to respond to four inquiries from the Consumer Affairs Division, Flores violated a Missouri insurance regulation, namely 20 CSR 100-4.100(2)(A).

18. The Director has considered Flores' history and all of the circumstances surrounding Flores' Application for licensure and exercises his discretion in summarily refusing to issue Flores' insurance producer license.

19. Granting Flores' insurance producer license would not be in the public interest.

20. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer application of **Melinda F. Flores** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 15th **DAY OF MARCH, 2011.**

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 1st day of March, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 70041350000314135553.

Melinda F. Flores
851 Poleline Road
Twin Falls, Idaho 83301-3037

Kathryn Randolph

Kathryn Randolph