State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

In the Matter of:	)	
	)	
	)	**AHC Case No. 09-1376 DI**
WAKAMBA KAMBARANGEE GUICHARD,	)	**Legal File: 090309376C**
	)	
	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF DISCIPLINE

JOHN M. HUFF, Director of the Department of Insurance, Financial Institutions and Professional Registration, hereby makes the following Findings of Fact, Conclusions of Law, and Order of Discipline.

Findings of Fact

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (the "Director" of the "Department") whose duties, pursuant to Chapters 374 and 375, RSMo, include supervision, regulation and discipline of insurance producers.

2. Respondent Wakamba Kambarangee Guichard ("Guichard") is a Florida resident with an address of record of 1651 Galiano Street, Deltona, FL, 32725. Guichard was last successfully served with process on September 13, 2010, at P.O. Box 620643, Oviedo, FL, 32762.

3. The Department first issued Guichard a non-resident insurance producer license on December 29, 2005 (License No. 362375). Guichard's Missouri non-resident insurance producer license expired on August 27, 2010.

4. On October 13, 2009, the Director, through counsel, filed his First Amended Complaint (the "Complaint") with the Administrative Hearing Commission ("AHC"), in which the Director alleged cause for discipline to Guichard's Missouri non-resident insurance producer license. Guichard was served with the Complaint and notice of the hearing by the AHC on October 22, 2009.

5. On March 1, 2010, the AHC held a hearing on the Complaint. The Director was represented by counsel at the hearing. Neither Guichard nor anyone representing her appeared.

6. On July 22, 2010, the AHC issued an Amended Decision finding that cause to discipline Guichard's insurance producer license under § 375.141.1(1), (3) and (9), RSMo (Supp. 2009), and under § 375.141.1(2), RSMo (Supp. 2009), for Guichard's violation of 20 CSR 100-4.100.

7. On October 5, 2010, a disciplinary hearing (the "Hearing") was held at the offices of the Director. Deputy Director and General Counsel James R. McAdams presided as hearing officer at the Hearing. Though Guichard had been served with notice of the hearing on September 13, 2010, neither Guichard nor anyone representing her appeared at the Hearing.

8. At the Hearing, the hearing officer took judicial notice of the AHC's record of proceedings and admitted it as evidence in the Hearing, among other exhibits.

9. On December 9, 2010, Petitioner filed a Motion to Supplement the Record of Disciplinary Proceedings, requesting that copies of the following, all certified by the AHC, be added to the record: Petitioner's First Amended Complaint; the AHC's Notice of Complaint/Notice of Hearing, mailed by the AHC to Guichard by certified mail; a certified mail return receipt received by the AHC from Guichard; and a copy of the AHC's docket sheet for Guichard's case.

10. The Director hereby adopts the Findings of Fact made by the AHC in its July 22, 2010 Amended Decision and incorporates them as if fully set out herein.[1]

Conclusions of Law

11. Petitioner's Motion to Supplement the Record of Disciplinary Proceedings is GRANTED, and the certified copies of Petitioner's First Amended Complaint, the Notice of Complaint/Notice of Hearing, the certified mail return receipt, and the docket sheet are hereby added to the record of these disciplinary proceedings.

12. Sufficient grounds exist to revoke the Missouri non-resident insurance producer license of Wakamba Kambarangee Guichard (License No. 362375) under § 375.141.1(1), RSMo (Supp. 2009), based on Guichard's false statements on two applications for non-resident insurance producer licenses submitted to the Department in 2007 and 2008. Guichard falsely stated on both applications that she had not been involved in administrative proceedings regarding her license, when in fact her insurance producer license, or its equivalent, had been revoked in Utah and Virginia by the time she submitted the 2007 application, and had also been revoked in Kansas by the time she submitted the 2008 application.

13. Sufficient grounds exist to revoke the Missouri non-resident insurance producer license of Wakamba Kambarangee Guichard (License No. 362375) under § 375.141.1(2), RSMo (Supp. 2009), based on Guichard's violation of 20 CSR 100-4.100. Guichard failed on three occasions to respond to the Department's inquiries as required by 20 CSR 100-4.100.

14. Sufficient grounds exist to revoke the Missouri non-resident insurance producer license of Wakamba Kambarangee Guichard (License No. 362375) under § 375.141.1(2), RSMo (Supp. 2009), based on Guichard's violation of § 375.141.6, RSMo (Supp. 2009). Guichard failed to report to the Director, within 30 days of the each final disposition, the revocation of her

[1] A copy of the July 22, 2010 Amended Decision is attached to this Order as Exhibit A.

insurance producer license, or its equivalent, in Utah on March 15, 2007, in Virginia on August 7, 2007, and Kansas on November 29, 2007.

15. Sufficient grounds exist to revoke the Missouri non-resident insurance producer license of Wakamba Kambarangee Guichard (License No. 362375) under § 375.141.1(3), RSMo (Supp. 2009), because Guichard attempted to obtain, and did obtain, a license through misrepresentation by falsely stating on both applications that she had not been involved in administrative proceedings regarding her license, when in fact her insurance producer license, or its equivalent, had been revoked in Utah and Virginia by the time she submitted the 2007 application, and had also been revoked in Kansas by the time she submitted the 2008 application.

16. Sufficient grounds exist to revoke the Missouri non-resident insurance producer license of Wakamba Kambarangee Guichard (License No. 362375) under § 375.141.1(9), RSMo (Supp. 2009), because Guichard's insurance producer license, or its equivalent, was revoked in Utah, Virginia and Kansas.

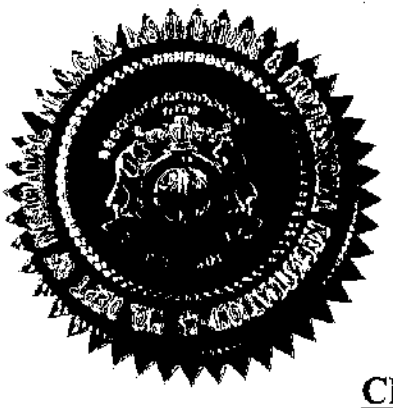
17. The expiration of Guichard's Missouri non-resident insurance producer license does not deprive the Director of jurisdiction to revoke that license. § 375.141.4, RSMo (Supp. 2009).

18. This order is in the public interest.

ORDER

Based on the evidence presented and the recommendation of the Department and the Hearing Officer to revoke, the insurance producer license of Wakamba Kambarangee Guichard (License No. 362375) is hereby **REVOKED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 24th DAY OF JANUARY, 2011.



John M. Huff, Director
Missouri Department of Insurance,
Financial Institutions & Professional
Registration

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing, including all attachments, was mailed, with sufficient postage attached, via certified mail through the United States Postal Service, certified mail # 7004 1350 0003 1413 5505 on this 27th day of January, 2011 to:

Wakamba Kambarangee Guichard
1651 Galiano Street
Deltona, Florida 32725

and by priority mail # 0307 3330 0000 7083 2487, on this 27th day of January, 2011 to:

Wakamba Kambarangee Guichard
P.O. Box 620643
Oviedo, Florida 32762

Kathryn Randolph
Paralegal

Before the
Administrative Hearing Commission
State of Missouri

DIRECTOR OF DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION,	)	
Petitioner,	)	
vs.	)	No. 09-1376 DI
WAKAMBA KAMBARANGEE GUICHARD,	)	
Respondent.	)	

AMENDED DECISION

Wakamba Kambarangee Guichard is subject to discipline because: her insurance producer's license, or its equivalent, was revoked in Utah, Virginia, and Kansas; she made false and misleading statements on two licensing applications; she failed to report any of the revocations within 30 days of their final disposition; and she failed to respond within 20 days to four separate requests for information.

Procedure

On October 7, 2009, the Director of the Department of Insurance, Financial Institutions and Professional Registration ("the Director" and "the Department" respectively) filed a complaint seeking to discipline Guichard. We served Guichard with a copy of the complaint and our notice of complaint/notice of hearing on October 22, 2009. Guichard did not file an answer.

EXHIBIT
A

On March 1, 2010, we held a hearing on the complaint. Enforcement Counsel Andy Heitmann represented the Director. Neither Guichard nor anyone representing her appeared. The matter became ready for our decision on March 24, 2010, the date the transcript was filed.

Findings of Fact

1. Guichard was first issued an insurance producer license on December 29, 2005. This license expired on December 29, 2007. Guichard was again licensed as an insurance producer, effective August 27, 2008. This license expires on August 27, 2010.

2. Guichard's insurance producer license, or its equivalent, was revoked in Utah on March 15, 2007. Her insurance producer license, or its equivalent, was revoked in Virginia on August 7, 2007.

3. On October 30, 2007, the Director received Guichard's electronically submitted Uniform Application for Non-Resident Individual Producer License Renewal ("2007 application").

4. Guichard falsely attested in her 2007 application that she had never been involved in an administrative proceeding concerning a professional or occupational license, in that she incorrectly answered Background Question # 2 of the 2007 application "No" and signed the application, thereby attesting that her answers were true and complete.

5. Because a regulatory database search revealed that other states had taken action against her licenses in those states, and her 2007 application did not indicate this, the Director opened an investigation concerning Guichard's 2007 application.

6. The Department sent a letter to Guichard on November 9, 2007, inquiring about the Utah and Virginia revocations. The letter was not returned to the Director as undeliverable, yet Guichard failed to respond within 20 days. Guichard never responded to the November 9, 2007, letter.

7. On November 29, 2007, the Commissioner of Insurance of the State of Kansas revoked Guichard's insurance producer license, or its equivalent, and served Guichard notice of the revocation by first class mail.

8. At the time of the Kansas revocation, Guichard was still licensed as an insurance producer in Missouri under the Department's original December 2005 issuance of a license to Guichard.

9. Guichard failed to notify the Director of the Kansas revocation within 30 days or any time thereafter.

10. On January 10, 2008, the Department's investigator spoke to Guichard on the phone and requested an explanation of the Utah and Virginia revocations. Guichard promised to send an explanation, but failed to do so within 20 days. Guichard never responded to the January 10, 2008, request for explanation.

11. On February 28, 2008, the Department sent another letter to Guichard, inquiring about the Utah and Virginia revocations. The letter was not returned to the Director as undeliverable. Again, Guichard failed to respond within 20 days. Guichard never responded to the February 28, 2008, letter.

12. On March 21, 2008, the Department sent a third letter to Guichard, inquiring about the Utah and Virginia revocations, which was not returned to the Director as undeliverable. Again, Guichard failed to respond within 20 days. Guichard never responded to the March 21, 2008, letter.

13. During the time the Director was reviewing Guichard's 2007 application, Guichard submitted a second renewal application, dated August 14, 2008 ("2008 application").

14. On the 2008 application, Guichard again answered Background Question #2 "No," falsely indicating that she had never been involved in any administrative proceedings concerning any professional or occupational licenses.

15. Below Background Question #2 the following term is defined: "'Involved' means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation or surrendering a license to resolve and administrative action."[1]

16. The 2008 application also contains the Applicant's Certification and Attestation, which states: "I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties."[2]

17. Guichard signed the Applicant's Certification and Attestation on August 14, 2008, thereby certifying that her answer to Background Question # 2 was true and complete.

18. On August 27, 2008, The Director's Licensing Section, acting in error and apparently without regard to the ongoing investigation of the 2007 application, approved Guichard's 2008 application.

19. On October 7, 2008, responding to Guichard's 2007 application, and unaware that the Licensing Section had approved the 2008 application, the Director issued an order refusing to renew Guichard's license ("the refusal order").

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[1]Pet. Ex. 3.
[2]*Id.*

20. In the refusal order, the Director found the following:[3]

a. Guichard falsely attested in her 2007 application that she had never been involved in an administrative proceeding concerning a professional or occupational license, in that she incorrectly answered Background Question # 2 of the 2007 application "No" and signed the application, thereby attesting that her answers were true and complete.

b. Contrary to Guichard's false attestation on the 2007 application, her insurance producer license, or its equivalent, had been revoked in Utah on March 15, 2007, and Virginia on August 7, 2007.

c. The Department sent a letter to Guichard on November 9, 2007, inquiring about the Utah and Virginia revocations. The letter was not returned to the Director as undeliverable, yet Guichard failed to respond within 20 days. Guichard never responded to the November 9, 2007, letter.

d. On January 10, 2008, the Department's investigator spoke to Guichard on the phone and requested an explanation of the Utah and Virginia revocations. Guichard promised to send an explanation, but failed to do so within 20 days. Guichard never responded to the January 10, 2008, request for explanation.

e. On February 28, 2008, the Department sent another letter to Guichard, inquiring about the Utah and Virginia revocations. The letter was not returned to the Director as undeliverable. Again, Guichard failed to respond within 20 days. Guichard never responded to the February 28, 2008, letter.

f. On March 21, 2008, the Department sent a third letter to Guichard, inquiring about the Utah and Virginia revocations, which was not returned to the Director as undeliverable. Again, Guichard failed to respond within 20 days. Guichard never responded to the March 21, 2008, letter.

g. Guichard failed to report the revocations in Utah and Virginia within 30 days of their final disposition. Guichard never reported the revocations.

21. On October 7, 2008, the Director sent a copy of the refusal order by certified mail to Guichard.

22. Guichard did not appeal the refusal order to this Commission, or contact the Department about the refusal order.

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[3]Pet. Ex. 2.

Conclusions of Law

We have jurisdiction to hear this case.[4] The Director has the burden of proving that Guichard has committed an act for which the law allows discipline.[5] The Director argues that there is cause for discipline under § 375.141:

> 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:
>
> (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
>
> (3) Obtaining or attempting to obtain a license through material misrepresentation or fraud;
>
> * * *
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
>
> * * *
>
> 6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

I. License Revoked – Subdivision (9)

Guichard's insurance producer license, or its equivalent, was revoked in Utah, Virginia, and Kansas. There is cause for discipline under § 375.141.1(9).

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[4]Section 621.145. Statutory references, unless otherwise noted, are to RSMo Supp. 2009.
[5]***Missouri Real Estate Comm'n v. Berger***, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

II. False Statement on Application – Subdivision (1)

Guichard falsely stated on both her 2007 application and her 2008 application that she had never been involved in an administrative proceeding, when her insurance producer license, or its equivalent, had been revoked in Utah and Virginia at the time of her 2007 application, and in Utah, Virginia, and Kansas at the time of her 2008 application.

The dictionary definition of "material" is "having real importance or great consequences[.]"[6] Whether Guichard's license had been disciplined was material to the Director's decision on whether to renew her license in Missouri. There is cause for discipline under § 375.141.1(1).

III. Material Misrepresentations – Subdivision (3)

The Director argues that by submitting the 2007 application, Guichard attempted to obtain a license through misrepresentation, and by submitting the 2008 application, Guichard both attempted to and did obtain a license through misrepresentation.

Misrepresentation is a falsehood or untruth made with the intent and purpose of deceit.[7] We agree that Guichard's false statements that she had never been involved in administrative proceedings were material misrepresentations. There is cause for discipline under § 375.141.1(3).

IV. Violating Law/Regulation – Subdivision (2)

A. Report Revocations

The Director argues that Guichard failed to report any of the revocations to the Director. We agree that Guichard failed to report any of the revocations of her insurance producer license,

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[6]MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 765 (11th ed. 2004).
[7]*Id.* at 794.

or its equivalent, in Utah, Virginia or Kansas to the Director within 30 days of their final disposition in violation of § 375.141.6. There is cause to discipline Guichard under § 375.141.1(2) for violating § 375.141.6.

B. Respond to Inquiries

Guichard failed to respond within 20 days to four separate Department inquiries. Regulation 20 CSR 100-4.100 states:[8]

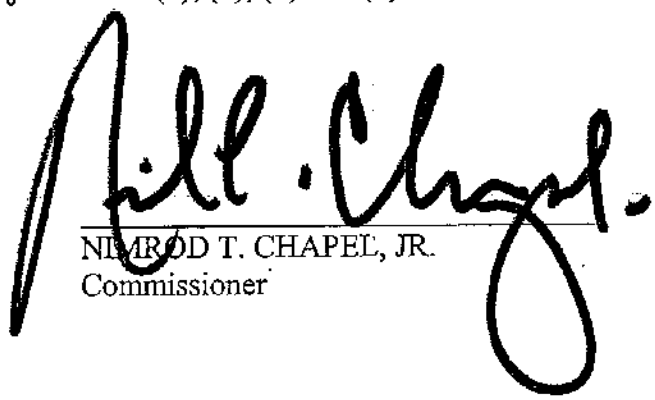
> (2) Except as required under subsection (2)(B) –
>
> (A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of 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.

There is cause to discipline Guichard under § 375.141.1(2) violating 20 CSR 100-4.100.

Summary

There is cause for discipline under § 375.141.1(1), (2), (3) and (9).

SO ORDERED on July 22, 2010.



NIMROD T. CHAPEL, JR.
Commissioner

[8]The regulation has been amended merely to change "department" to "division." We cite the current version.