BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
OCT 13 2009
ADMINISTRATIVE HEARING COMMISSION

DIRECTOR,	)	
Department of Insurance, Financial	)	
Institutions & Professional Registration	)	
State of Missouri,	)	
	)	
Petitioner,	)	
	)	**Case No.: _____**
vs.	)	
	)	
	)	
WAKAMBA KAMBARANGEE	)	
GUICHARD,	)	
	)	
Respondent.	)	
	)	
Serve at:	)	
	)	
1651 Galiano Street	)	
Deltona, Florida 32725	)	
	)	
Telephone: (386) 232-4379 (home)	)	
(954) 484-4973 (business)	)	

PETITIONER'S FIRST AMENDED COMPLAINT

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists for disciplinary action against Respondent Wakamba Kambarangee Guichard, because:

FACTS RELEVANT TO ALL COUNTS

1. Petitioner is the Director of the Department of Insurance, Financial Institutions and Professional Registration ("Department"). The Director has the duty to administer Chapters 374 and 375, RSMo, which includes the supervision, regulation, and discipline of insurance producers.

2. The Administrative Hearing Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Supp. 2008).

3. Respondent Wakamba Kambarangee Guichard ("Guichard") is a Florida resident with an address of 1651 Galiano Street, Deltona, FL, 32725.

4. Petitioner first issued Guichard an insurance producer license on December 29, 2005 (License No. 362375).

5. On October 30, 2007, the Department received Guichard's electronically submitted Uniform Application for Non-Resident Individual Producer License Renewal ("2007 Application"). Because a regulatory database search revealed that other states had taken action against her licenses in those states, and her 2007 Application did not so indicate, the Department opened an investigation concerning Guichard's 2007 Application.

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

7. On August 27, 2008, Petitioner's Licensing Section, acting in error and apparently without regard to the ongoing investigation of the 2007 Application, approved Guichard's 2008 Application.

8. On October 7, 2008, responding to Guichard's 2007 Application, and unaware that the Licensing Section had approved the 2008 Application, Petitioner issued an order refusing to renew Guichard's license ("Refusal").

9. In the Refusal, Petitioner found as fact, and here re-alleges as facts supporting grounds for discipline to Guichard's erroneously issued license, that:

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 Petitioner 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 Petitioner 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 Petitioner 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.

10. On October 7, 2008, Petitioner sent a copy of the Refusal by certified mail to Guichard.

11. Guichard did not appeal the Refusal to the Administrative Hearing Commission, nor did Guichard contact the Department about the Refusal.

12. 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.

13. 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. As such, she was required to report the Kansas revocation within 30 days.

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

15. 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.

16. Below Background Question # 2 appears the following clarification:

> "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 . . .

17. The 2008 Application also contains the Applicant's Certification and Attestation, which states, in part:

> 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.

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

19. Section 375.141, RSMo (Supp. 2008), states, 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:
>
> (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.
>
> * * *

20. The version of 20 CSR 100-4.100 in effect at all times relevant to this Complaint stated, in relevant part:

> (1) Definitions
>
> * * *

(C) Adequate response means a written response answering each inquiry with reasonable specificity. A person's acknowledgment of the division's inquiry is not an adequate response.

* * *

(2)(A) Upon receipt of any inquiry from the division, every person shall mail to the department an adequate response to the inquiry within twenty (20) days from the date the department 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.

* * *

COUNTS I to III

21. Petitioner hereby incorporates and re-alleges Paragraphs 1 through 19 of this Complaint.

22. Guichard's insurance producer license, or its equivalent, has been revoked in Utah, Virginia and Kansas.

23. Each revocation provides cause for Petitioner to revoke Guichard's Missouri insurance producer license under § 375.141.1(9), RSMo (Supp. 2008).

COUNTS IV and V

24. Petitioner hereby incorporates and re-alleges Paragraphs 1 through 19 of this Complaint.

25. Guichard falsely stated on both her 2007 Application and her 2008 Application that she had never been involved in an administrative proceeding, when in fact 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.

26. If an applicant truthfully reports previous administrative proceedings, by

answering Background Question # 2 or otherwise, this triggers a review by the Department of the application. The application will not be immediately approved, and the chances that the application will be refused are significantly increased. If an applicant falsely answers Background Question # 2, indicating a lack of administrative history where in fact an applicant has been involved in relevant administrative proceedings, the Department may be misled into forgoing the additional review of the application.

27. It is inferable—and, in the Refusal, Petitioner found—that in both instances Guichard intentionally gave false answers in order to improve her chances of having her applications approved. Indeed, the Licensing Section erroneously granted a license to Guichard as a result of her misrepresentation on the 2008 Application.

28. Both false answers provide Petitioner cause to revoke Guichard's Missouri insurance producer license under § 375.141.1(1), RSMo (Supp. 2008).

COUNTS VI and VII

29. Petitioner hereby incorporates and re-alleges Paragraphs 1 through 19 and 25 through 27 of this Complaint.

30. Guichard's false statements that she had never been involved in administrative proceedings were material misrepresentations, in that the revocations provided grounds for refusal; by falsely stating that those grounds did not exist Guichard attempted to alter the outcome of her application, and did alter the outcome to her advantage with regard to her 2008 Application.

31. By submitting the 2007 Application, Guichard attempted to obtain a license through misrepresentation; by submitting the 2008 Application, Guichard both attempted to obtain and did obtain a license through misrepresentation.

32. Both false statements provide Petitioner cause to revoke Guichard's Missouri insurance producer license under § 375.141.1(3), RSMo (Supp. 2008).

COUNTS VIII to X

33. Petitioner hereby incorporates and re-alleges Paragraphs 1 through 19 of this Complaint.

34. Guichard failed to report any of the revocations of her insurance producer license, or its equivalent, in Utah, Virginia or Kansas to Petitioner within 30 days of their final disposition: Guichard failed to ever report any of the revocations to Petitioner.

35. Each failure to report revocations in other states to Petitioner within 30 days provides Petitioner cause to revoke Guichard's Missouri insurance producer license under § 375.141.1(2), RSMo (Supp. 2008), for violating § 375.141.6, RSMo (Supp. 2008).

COUNTS XI to XIII

36. Petitioner hereby incorporates and re-alleges Paragraphs 1 through 20 of this Complaint.

37. Guichard failed to adequately respond within 20 days to three separate Department inquiries:

a. Guichard failed to respond within 20 days to the Department's November 9, 2007 letter.

b. Guichard failed to respond within 20 days to the Department's February 28, 2008 letter.

c. Guichard failed to respond within 20 days to the Department's March 21, 2008 letter.

38. Guichard has never offered any justification for her failure to respond to these

inquiries.

39. Each failure to adequately respond to Department inquiries within 20 days provides Petitioner cause to discipline Guichard's insurance producer license under § 375.141.1(2), RSMo (Supp. 2008) for each of Guichard's violations of 20 CSR 100-4.100.

WHEREFORE, based on the foregoing, Petitioner respectfully requests that the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent Wakamba Kambarangee Guichard's insurance producer license (License No. 362375) pursuant to §§ 375.141.1(1), (3) & (9), RSMo (Supp. 2008), and pursuant to § 375.141.1(2), RSMo (Supp. 2008), for violating § 375.141.6, RSMo (Supp. 2008) and 20 CSR 100-4.100.

Respectfully submitted,

Andy Heitmann
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ATTORNEY FOR PETITIONER
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing, including all attachments, was mailed first class, with sufficient postage attached, via the United States Postal Service on this __th day of October, 2009 to:

Wakamba Kambarangee Guichard
1651 Galiano Street
Deltona, Florida 32725

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