State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
Osvaldo Lopez,	)	
	)	Case No. 110311369C
Applicant.	)	
	)	
Serve at:	)	
	)	
5832 North Marshall Street	)	
Philadelphia, Pennsylvania 19120	)	

ORDER REFUSING TO ISSUE INSURANCE PRODUCER LICENSE

On May 2, 2011, counsel for the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue Osvaldo Lopez's 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. Osvaldo Lopez ("Lopez") is an individual residing in Pennsylvania. His mailing, business, and residence address is 5832 North Marshall Street, Philadelphia, Pennsylvania 19120.

2. On August 27, 2010, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received an electronic non-resident insurance producer application ("Application") from Lopez.

3. On the Application, in the section titled "Background Questions," Background Question # 7 asks, "Do you have a child support obligation in arrearage?" Lopez answered "Yes" to Background Question # 7 and explained that he was 180 months in arrearage.

4. On October 20, 2010, Consumer Affairs Division Special Investigator Karen Crutchfield sent a letter to Lopez requesting that Lopez provide a copy of the modification of child support obligation and a copy of payment history schedule from the New York Office of Child Support Enforcement. The letter was not returned to the Department as undeliverable. Lopez

did not respond to the October 20, 2010 letter and did not contact the Department in any way to provide a reasonable justification for a delayed response.

5. On December 27, 2010, Special Investigator Crutchfield mailed a second letter to Lopez by certified mail. The certified mailing information shows a notice was left for Lopez on December 31, 2010. The letter was not returned to the Department as either claimed or unclaimed.

6. On January 19, 2011, Special Investigator Crutchfield sent an email to the business email address included on the Application. Special Investigator Crutchfield believed the email address belonged to Sunny Timbo, Authorized Submitter of Lopez's Application. Neither Lopez nor his Authorized Submitter responded to the January 19, 2011 email nor contacted the Department in any way to provide a reasonable justification for a delayed response.

7. On February 9, 2011, Crutchfield sent an email to Lea Bonikowski, the Licensing Administrator for Corporate Call Center, Inc., who previously corresponded with the Department concerning Lopez's Application. Bonikowski stated that Lopez no longer worked for her company and provided an alternative email address for Lopez.

8. On February 9, 2011, Crutchfield sent an email to the alternative email address provided by Bonikowski. A delivery failure notice was returned showing that the email was undeliverable.

9. On February 9, 2011, Crutchfield called the residence phone number provided on the Application. No one answered the phone.

CONCLUSIONS OF LAW

10. 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[.]

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

11. 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.

12. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

13. 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).

14. The Director may refuse Lopez's non-residence insurance producer license Application pursuant to § 375.141.1(2) because by failing to respond to the Consumer Affairs Division's October 20, 2010 letter, Lopez violated a Missouri insurance regulation, namely 20 CSR 100-4.100(2)(A).

15. Special Investigator Crutchfield made multiple attempts to obtain information from Lopez concerning his child support arrearage. The Director has considered Lopez's history and all of the circumstances surrounding Lopez's Application for licensure and exercises his discretion in summarily refusing to issue Lopez's insurance producer license.

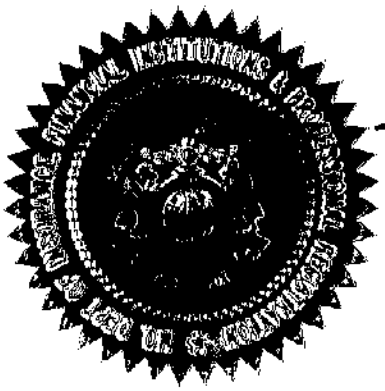
16. Granting Lopez's insurance producer license would not be in the public interest.

17. This Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the insurance producer license of **Osvaldo Lopez** is hereby summarily **REFUSED**.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 6TH **DAY OF MAY, 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 11th day of May, 2011, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 70070710000220552237.

Osvaldo Lopez
5832 North Marshall Street
Philadelphia, Pennsylvania 19120

Kathryn Randolph

Kathryn Randolph