

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

JAN 07 2010

ADMINISTRATIVE HEARING
COMMISSION

DIRECTOR, DEPARTMENT OF INSURANCE,)
FINANCIAL INSTITUTIONS AND)
PROFESSIONAL REGISTRATION,)
STATE OF MISSOURI,)

Petitioner,)

vs.)

PATRICIA LAREINA ORTIZ,)

Respondent.)

Serve:)

Patricia Lareina Ortiz)
123-B Oakland Street)
Baytown, Texas 77520)
Telephone: 281-838-1460)

Or)

Patricia Lareina Ortiz)
1007 San Jacinto Street)
Highlands, Texas 77562-3546.)

Case No.:

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 Patricia Lareina Ortiz, and in support, states as follows:

INFORMATION RELEVANT TO ALL COUNTS

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

2. The Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") originally issued an insurance producer license to Patricia Lareina Ortiz ("Respondent" or "Respondent Ortiz") on May 3, 2006, License Number 0370295, which was subsequently renewed and will expire on May 3, 2010.

3. The Commission has jurisdiction over this Complaint pursuant to § 621.045.

COUNT I

4. Section 375.141 RSMo (Supp. 2008)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;

* * *

7. Within thirty days of the initial pretrial hearing date, a producer shall report to the director any criminal prosecution for a felony or a crime involving moral turpitude of the producer taken in any jurisdiction. The report shall include a copy of the indictment or information filed, the order resulting from the hearing and any other relevant legal documents.

5. Respondent failed to report to the Director a criminal prosecution against her in Texas or to provide a copy of the indictment or other relevant legal documents in violation of § 375.141.7, which is grounds to discipline Respondent's insurance producer license pursuant to §375.141.1(2).

6. The facts are as follows:

- a. On or about April 3, 2008, a grand jury in Harris County, Texas, indicted Respondent Ortiz of felony theft of food stamp benefits, with the total value appropriated over \$1,500 and under \$20,000 (food stamp fraud).

¹ All statutory references are to RSMo (Supp. 2008) unless otherwise indicated.

- b. On or about August 5, 2008, Travelers Indemnity Company informed the Department by letter that it and its affiliates had terminated all agent agreements with Respondent Ortiz as a result of her conviction of food stamp fraud.
- c. Respondent Ortiz pleaded guilty to the felony offense of theft of over \$1,500 and under \$20,000, and on June 27, 2008, she was placed on two years community supervision. *State of Texas v. Patricia Ortiz*, Harris County District Court, Texas, Case No. 1160897.
- d. Respondent Ortiz did not ever report to the Director her criminal prosecution for food stamp fraud, nor did she ever provide a copy of the indictment or any other relevant legal documents to the Director.

7. Sufficient grounds exist for disciplining Respondent Ortiz's insurance producer license pursuant to § 375.141.1(2) for violating § 375.141.7.

COUNT II

8. Section 375.141 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:

* * *

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

9. Respondent's insurance producer license or its equivalent has been revoked in four (4) other states which is grounds to discipline Respondent Ortiz's insurance producer license pursuant to § 375.141.1(9).

10. The facts are as follows:

- a. On January 5, 2009, the Director of the Idaho Department of Insurance revoked Respondent Ortiz's non-resident producer license. *In the Matter of Patricia L. Ortiz, Order of Revocation*, Docket No. 18-2508-08.
 - b. On May 22, 2009, the Virginia State Corporation Commission revoked Respondent's insurance agent license. *State Corporation Commission v. Patricia Lareina Ortiz, Order Revoking License*, Case No. INS-2009-00093.
 - c. On August 18, 2009, the Kansas Commissioner of Insurance revoked the non-resident insurance agent's license of Respondent. *In the Matter of Patricia Lareina Ortiz, Summary Order*, Docket No. 3999-SO.
 - d. On August 31, 2009, the Commissioner of the California Department of Insurance revoked Respondent's non-resident insurance producer license. *In the Matter of the Licenses and Licensing Rights of Patricia Lareina Ortiz, Order of Summary Revocation*, File No. LBB 5606-AP (AR).
11. Sufficient grounds exist for disciplining Respondent Ortiz's insurance producer license pursuant to § 375.141.1(9).

COUNT III

12. Section 375.141.1 provides, 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:

* * *

 - (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state[.]
13. Section 375.141.6 provides that:
- 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.

14. Respondent failed to report to the Director the administrative actions (revocations) taken against her by the states of Idaho, Virginia, Kansas, and California in violation of § 375.141.6, which is grounds to discipline Respondent's insurance producer license pursuant to § 375.141.1(2).

15. The facts are as follows:

a. Petitioner realleges and expressly incorporates by reference the allegations in Count II, paragraph 10, including subparagraphs a. through d.

16. Sufficient grounds exist for disciplining Respondent Ortiz's insurance producer license pursuant to §375.141.1(2) for violating § 375.141.6.

COUNT IV

17. Section 375.141.1 provides, 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:

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state[.]

18. Title 20 CSR 100-4.100, Required Response to Inquiries by the Consumer Affairs Division, provides in relevant part:

(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.

19. The facts are as follows:

- a. On October 1, 2008, Investigator Dana Whaley mailed a letter to Respondent Ortiz requesting an explanation regarding why Respondent answered “no” to the renewal application question asking, in part, if she was currently charged with a crime. Whaley also requested certified copies of the charges, judgment, and sentence.
- b. The October 1, 2008 letter was not returned to the Department as undeliverable. The Department did not receive a response from Ortiz within 20 days from the date Whaley mailed the letter. To date, the Department has not received any response from Respondent Ortiz regarding the October 1, 2008 letter.

20. Under Missouri law, when a letter is duly mailed by first class mail, there is a rebuttable presumption that the letter was delivered to the addressee in the due course of the mails. *Hughes v. Estes*, 793 S.W.2d 206 (Mo. App. 1990).

21. Sufficient grounds exist for disciplining Respondent Ortiz’s insurance producer license pursuant to §375.141.1(2) for violating 20 CSR 100-4.100.

WHEREFORE, based on the foregoing, Petitioner respectfully requests the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent’s insurance producer license pursuant to §§ 375.141.1(2) and (9) RSMo (Supp. 2008).

Respectfully submitted,



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