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FILED 

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Department of Insurance
State of Idaho

Attorneys for Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

STATE OF IDAHO, DEPARTMENT OF
INSURANCE,

Complainant,

vs.

MULTISERVICIOS LATINOS, L.L.C., and
MAGALI FLEMING,

Respondents.

Docket No. 18-2722-11

ORDER TO CEASE AND DESIST

The State of Idaho, Department of Insurance (Department), hereby alleges the following facts that constitute a basis for the issuance of an order, pursuant to Idaho Code § 41-213(1)(a), requiring MULTISERVICIOS LATINOS, L.L.C., (Multiservicios) and MAGALI FLEMING (Fleming), collectively referred to herein as Respondents, to immediately cease and desist from violating title 41, Idaho Code.

RESPONDENTS

1. Respondent Multiservicios is an Idaho limited liability company, the certificate of organization of which was filed with the Idaho Secretary of State on July 12, 2011. Multiservicios maintains a business address of 410 North Kings Road #1, Nampa, Idaho 83687. Respondent Fleming is an individual residing in Nampa, Idaho. Respondent Fleming is the sole member or manager of Multiservicios, as well as its registered agent.

FINDINGS OF FACT

2. Neither Respondent is presently, nor has at any time, been licensed by the Department to transact insurance in Idaho.

3. On or about September 15, 2011, the Department became aware of a Spanish language newspaper advertisement in the Nampa, Idaho, area concerning Respondent Multiservicios, which advertisement included the name and a purported photograph of Respondent Fleming. The advertisement contained a list of various services offered by Multiservicios, including “Seguros de Autos y Casas,” the English translation of which is “auto and home insurance.” Such advertisement constitutes a solicitation of insurance business.

4. On September 15, 2011, the Department sent a request to Respondent Fleming inquiring about the insurance activities and licensing status of the Respondents and of any employees of Respondent Multiservicios.

5. Respondent Fleming responded to the Department’s inquiry by letter received by the Department on October 6, 2011. In that letter, Respondent Fleming represented that she is not licensed to sell, solicit, or negotiate insurance in Idaho, and that her company, Respondent Multiservicios, of which she is the only employee, does not offer any type of insurance or insurance services. She further stated that she anticipated receiving an insurance producer

license prior to the advertisement running in the newspaper. As of November 30, 2011, neither Respondent has been issued a license by the Department authorizing them to transact insurance in Idaho, nor has the Department received any license application.

6. On or about October 12, 2011, the Department became aware of a Facebook page for Respondent Multiservicios bearing the name “Multiservicios Latinos De Idaho,” identified as a Nampa, Idaho, business, listing the same address as that of Respondent Multiservicios. The Facebook page contained an electronic photo album dated August 17, 2011, consisting of 16 electronic images. Image 11 of such album appears to be a photograph of an auto accident. Next to the photograph of the auto accident are the words: “Pagando demasiado en su seguro de Auto, Casa o Negocio? Solicite hoy un Estimado GRATIS.” Translated into English, these sentences read: “Paying too much for auto, home or business insurance? Ask for a free quote today.” The electronic image posted on Facebook constitutes a solicitation by the Respondents for insurance business, constituting transacting insurance in Idaho.

7. Image 12 of the same electronic album on Facebook contains photographs of two individuals, a banner labeled “business,” and, among other things, the words: “Seguros de Responsabilidad, Worker Compesation [sic].” The English translation for such phrases is: “liability insurance, worker[s]’ compensation.” This electronic image constitutes a solicitation by the Respondents for insurance business, constituting transacting insurance in Idaho.

8. The October 2011 issue of *Mirada Magazine* (a Hispanic bilingual magazine circulated in the Boise, Idaho, area) contains a Spanish language advertisement for Multiservicios Latinos. That advertisement references the business experience of Respondent Fleming and lists a variety of services offered by the Respondents, including “seguros de auto y casa,” constituting another reference to “auto and home insurance.” Such advertisement is a

solicitation by the Respondents for insurance business, constituting transacting insurance in Idaho.

CONCLUSIONS OF LAW AND VIOLATIONS

9. The allegations set forth in Paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. Idaho Code § 41-112 provides that “transacting insurance” includes, among other acts, solicitation or inducement.

11. Idaho Code § 41-1004(1) provides that a person shall not sell, solicit or negotiate insurance in Idaho unless that person is licensed as a producer for that line of authority in accordance with title 41, chapter 10, Idaho Code.

12. The Respondents’ transaction of insurance by soliciting the sale of insurance in print and electronic advertisements without holding the license required by title 41, chapter 10, Idaho Code authorizing them to do so, constitutes violations of Idaho Code § 41-1004. Each solicitation constitutes a separate violation.

13. Idaho Code § 41-117A authorizes the Director of the Idaho Department of Insurance (Director) to impose an administrative penalty not to exceed fifteen thousand dollars (\$15,000) upon any person who transacts insurance in Idaho without proper licensing.

14. Idaho Code § 41-213(1)(a) provides that, if the Director believes any person has engaged in or is about to engage in any act or practice which violates title 41, Idaho Code, the Director may issue an order requiring the person to cease and desist from any prohibited act or practice.

15. Idaho Code § 67-5247 provides that an agency may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

ORDER

The Director, having reviewed the foregoing, finding good cause and that the entry of this Order is required for the protection of the public;

NOW, THEREFORE, the Director HEREBY FINDS that the Respondents have violated title 41, Idaho Code, by transacting insurance in Idaho without the required licensure.

Based on the foregoing, and pursuant to Idaho Code §§ 41-213(1)(a) and 67-5247, IT IS HEREBY ORDERED that the Respondents immediately CEASE AND DESIST from the transaction of insurance in Idaho as defined in Idaho Code § 41-112, including, but not limited to, solicitation of insurance business, and from any other conduct constituting a violation of title 41, Idaho Code.

NOTICE

Respondents are HEREBY NOTIFIED that the foregoing ORDER TO CEASE AND DESIST is a final order of the Director, subject to the Respondents' right to timely file a motion for reconsideration of such final order or request for a hearing as to such order, pursuant to Idaho Code § 67-5246(4). Such motion for reconsideration or request for a hearing must be in writing and be submitted to the Director within fourteen (14) days after the service of this Order, at the following address:

William W. Deal, Director
Idaho Department of Insurance
700 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0043

A copy of the motion for reconsideration or request for a hearing shall also be served on the Department's counsel in this matter, A. René Martin, Deputy Attorney General, at the following address:

A. René Martin
Deputy Attorney General
Idaho Department of Insurance
P.O. Box 83720
Boise, Idaho 83720-0043

If the Respondent timely files a request for a hearing, the Department will notify the Respondent of the date, time, and place of the hearing, as well as the name and contact information of the presiding officer.

Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

The Director will dispose of a motion for reconsideration within twenty-one (21) days of its receipt, or the motion will be considered denied by operation of law. Idaho Code § 67-5246(4); Rule 740, Idaho Rules of Administrative Procedure of the Attorney General (IRAP), located at IDAPA 4.11.01.740.

Pursuant to Idaho Code §§ 67-5250 and 67-5272, any party aggrieved by this final order may appeal to the district court by filing a petition in the district court of the county in which:

- i. A hearing was held;
- ii. The final agency action was taken;
- iii. The party seeking review of the order resides or operates its principal place of business in Idaho; or
- iv. The real property or personal property that was the subject of the agency action is located.

See IDAPA 04.11.01.740.02.b.

An appeal must be filed within twenty-eight (28) days of (a) the service date of this final order, (b) an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See* Idaho Code § 67-5273. The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. *See* IDAPA 04.11.01.740.02.c.

This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 7TH day of December 2011.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



WILLIAM W. DEAL, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 8th day of December 2011, I caused a true and correct copy of the foregoing Order to Cease and Desist to be served upon the following by the designated means:

Multiservicios Latinos, L.L.C.
410 North Kings Road #1
Nampa, ID 83687

- first class mail
- certified mail
- hand delivery
- via facsimile

Magali Fleming
8180 East Dunbar Court
Nampa, ID 83687

- first class mail
- certified mail
- hand delivery
- via facsimile

A. René Martin
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile



Teresa Jones
Assistant to the Director