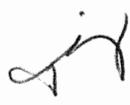


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Idaho State Bar No. 1763


FILED
OCT 18 2013
Department of Insurance
State of Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO

In the Matter of the Application)
for Resident Insurance Producer) Docket No. 18-2871-13
License of:)
)
EVA L. RAMIREZ,) HEARING OFFICER'S FINDINGS
) OF FACT, CONCLUSIONS OF
) LAW AND PRELIMINARY ORDER
Applicant.)
_____)

This matter came on for hearing on August 5, 2013. The Department of Insurance appeared by and through its attorney of record, Richard Burleigh, and Eva Ramirez appeared in person and by and through her attorney of record, Douglas Nelson. Evidence and testimony was received and a briefing schedule established. The parties filed simultaneous closing briefs. The final brief was received by the Hearing Officer September 11, 2013.

FINDINGS OF FACT

1. Eva L. Ramirez previously held an Idaho Resident Bail Agent license in the State of Idaho. Following a contested case proceeding, on September 26, 2011, this Hearing Officer issued a Findings of Fact, Conclusions of Law and Preliminary Order revoking

Respondent's Resident Bail Agent License and imposing a \$1,000 fine. (Exhibit D.) That decision found Ms. Ramirez had violated various provisions of the bail bond statutes, including misappropriating or converting monies received during an insurance transaction in violation of Idaho Code §41-1016(1)(d); using fraudulent or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility which was a source of injury or loss to the public in violation of Idaho Code §41-1016(1)(h); collecting money in a bail transaction not authorized by statute in violation of Idaho Code §41-1323; and wilfully collecting jail fees in excess of fees charged by the jail in violation of Idaho Code §41-1323. Ms. Ramirez's bail bond license was revoked and a \$1,000 administrative penalty imposed.

2. Ms. Ramirez appealed that decision to the District Court of the Fifth Judicial District of the State of Idaho in Twin Falls County. On March 20, 2012, District Judge Randy Stoker upheld the decision revoking Ms. Ramirez' bail agent license and imposing a \$1,000 fine.

3. On May 9, 2013, Eva Ramirez signed and submitted a Uniform Application for Individual Producer License/Registration. A copy of that application is included as Exhibit B. In that application, Ms. Ramirez applied for a license as an individual insurance producer for property and casualty insurance.

4. On Page 3 of that application, she answered "yes" to Question 1 on whether she had been convicted of a crime, had a judgment withheld or deferred or was currently charged with

committing a crime. She provided absolutely no documentation to support that "yes" answer. Upon further inquiry from the Department of Insurance, it was determined that Ms. Ramirez had in fact not been convicted of a crime and should not have answered that question "yes". She misinterpreted the \$1,000 fine as a criminal act.

5. In answer to Question 2, she answered "no" to the question of whether she had been named or involved as a party in an administrative proceeding including FINRA sanction or arbitration proceeding involving any professional or occupational license or registration. "Involved" is clearly defined as including a license revocation or being assessed a fine. In fact, that "no" answer to Question 2 was incorrect based upon her prior administrative proceeding involving her bail bond license.

6. Exhibit B, Page 5, indicates that Ms. Ramirez' answers were certified and attested to under oath and under penalty of perjury. Paragraph 1 of that certification and attestation 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.

7. In an email exchange beginning May 13, 2013, Lisa Tordjman emailed Ms. Ramirez asking for a better explanation of her "yes" answer to Question 1 and the answer to Question 5 which she answered "not sure". (Exhibit C.) In response, on May 14, 2013,

Ms. Ramirez reported that the prior license had been revoked September 26, 2010, "for record-keeping." That email further states: "I have paid the fine and completed with [sic] the time suspended 3/20/13." She stated that she was applying for Property and Casualty License, not a Bail License. In another email a few seconds later, Ms. Ramirez clarified that the revocation date was September 26, 2011. That same day, Ms. Ramirez clarified that Question 2 should have been answered "yes", but erroneously stated the revocation had only been for one year.

8. By letter dated May 20, 2013, the Department issued a Preliminary Order Denying Application. (Exhibit A.) That letter notes that Ms. Ramirez' resident bail agent license had been revoked for four violations of the Idaho Code and that the revocation and \$1,000 fine had been affirmed by the District Court. That letter indicates that her "no" answer to Question 2 was incorrect, misleading, incomplete and materially untrue. The letter noted that Ms. Ramirez also incorrectly stated that her license was revoked for "recordkeeping".

9. The May 20, 2013, letter further noted her incorrect answer to Question 1 on whether she had been convicted of a crime.

10. The Preliminary Order Denying Application notes that, pursuant to Idaho Code §41-1016(1)(a), the Director of the Department may refuse to issue a license to an applicant who has provided incorrect, misleading, incomplete or materially untrue information.

11. Further, the letter noted that, pursuant to Idaho Code §41-1016(1)(d), the Director may refuse to issue a license to an applicant who improperly withheld, misappropriated or converted any monies or properties received in the course of doing insurance business.

12. Finally, Idaho Code §41-1016(1)(h) permits the Director to refuse to issue a license to an applicant who uses fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility, or was a source of injury and loss to the public or others, in the conduct of insurance business in the State of Idaho.

13. Pursuant to Idaho Code §41-232A(1) Ms. Ramirez timely requested a hearing on the Preliminary Order Denying Application.

14. During the hearing, the Department presented evidence that Ms. Ramirez continued to post her bail bond sign listing her bail bond insurance license and continued to participate in bond activities after her license had been revoked. (Exhibit F.) See also Exhibits H, I, J and K.

15. During the hearing, Ms. Ramirez testified that she answered "no" to the question on whether she had been subject to an administrative proceeding because someone at the Department told her to do so. The Hearing Officer does not find that testimony to be credible.

16. She further testified and argued in her closing argument that she was only subject to a one year suspension which is also incorrect. There was no time limit on the revocation and her

license was not suspended. It was revoked.

17. Ms. Ramirez further argued that her erroneous answers to the questions were not based upon an intent to defraud. The statute does not require proof of an intent to defraud, but allows for denial of a license if an applicant provides incorrect, misleading, incomplete or materially untrue information. The evidence establishes Ms. Ramirez did violate this statute.

CONCLUSIONS OF LAW

18. The evidence establishes that there are grounds to deny the application of Ms. Ramirez based upon various statutes:

19. Ms. Ramirez' application violated Idaho Code §41-1016(1) (a) in that she provided incorrect, misleading, incomplete or materially untrue information in her license application.

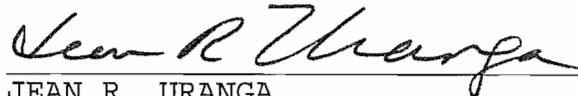
20. With respect to her prior bail bond license, Ms. Ramirez improperly withheld, misappropriated or converted monies or properties received in the course of doing insurance business in violation of Idaho Code §41-1016(1) (d) providing grounds for denial of her current application.

21. Further, with respect to her prior bail bond license, Ms. Ramirez used fraudulent or dishonest practices, or demonstrated incompetence, untrustworthiness or financial responsibility or was a source of injury and loss to the public or others in the conduct of insurance business, providing grounds for denial of her current application pursuant to Idaho Code §41-1016(1) (h).

PRELIMINARY ORDER

Based upon the foregoing, the Preliminary Order Denying Application dated May 20, 2013, is affirmed. Ms. Ramirez current application should be denied.

DATED This 17th day of October, 2013.



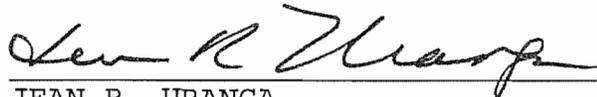
JEAN R. URANGA
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 17th day of October, 2013, I served true and correct copies of the foregoing HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

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