

FILED
AUG 25 2017
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 Producer License of:

MEAGHAN A. RUETHER,

Applicant.

Docket No. 18-3346-17

FINAL ORDER

This matter came before the Director of the Idaho Department of Insurance (“Director”) as presiding officer upon a hearing held July 20, 2017, on an Order to Show Cause and Notice of Hearing (the “Show Cause Hearing”). The Idaho Department of Insurance (“Department”) appeared through its attorney of record, John C. Keenan, Deputy Attorney General, and Meaghan A. Ruether (“Respondent”) appeared *pro se*. The matter arose upon the Department’s consideration of Respondent’s current application for resident producer license and her request for expedited review. The current application was submitted in accordance with the terms of the Stipulation and Final Order that issued on May 16, 2016, in Administrative Case No. 18-3059-15, revoking Respondent’s prior resident producer license. At the Show Cause Hearing, Respondent shouldered the burden pursuant to Idaho Code § 41-1026(3) of establishing why the prior

revocation should “not be deemed a bar to the issuance of a new license.” After reviewing the pleadings on record in both this matter and the prior Administrative Case No. 18-3059-15, and considering the testimony and evidence presented at hearing, and the parties’ subsequent submittals, the Director has determined that Respondent has met her burden, by the slightest of margins. As such, Respondent may be issued a conditional resident producer license subject to the terms as set forth herein.

PROCEDURAL RECORD

On June 17, 2017, Respondent submitted a Uniform Application for Individual Producer License/Registration (the “Application”), requesting an expedited review. On July 12, 2017, the Director issued an Order to Show and Notice of Hearing, pursuant to Idaho Code § 41-1026(3), requiring Respondent to appear for hearing and show cause why the revocation of her prior Resident Producer License No. 351383 should not be deemed as a bar to the issuance of a new license. At the onset of the hearing, the Director took notice pursuant to IDAPA 04.11.01.602 of the pleadings contained in the public docket for the revocation matter, i.e., Administrative Case No. 18-3059-15, which substantially consist of the Verified Complaint and Notice of Right to Hearing; the Request for Hearing submitted by Respondent’s prior counsel; and the Stipulation and Final Order. The Director also took notice of Respondent’s current Application and supporting letters of recommendation.

RELEVANT PROVISIONS OF PRIOR STIPULATION

Respondent was the sole owner of Rangewood Insurance LLC. On May 16, 2016, the Respondent, on behalf of herself and Rangewood Insurance LLC, entered into a Stipulation with the Department in Administrative Case No. 18-3059-15. In the Stipulation, the Department agreed to forgo litigating claims that Respondent and her entity violated Idaho Code § 41-1016(1)(e) by

misrepresenting a material fact in twenty-five (25) insurance transactions, each constituting a separate violation, and claims that Respondent violated Idaho Code § 41-1016(1)(h) by using fraudulent, dishonest practices, untrustworthiness, and was a source of injury and loss to the public or others in the conduct of business involving twenty-five (25) insurance transactions, each likewise constituting a separate violation. Through this agreement, the Department also compromised the litigation of the underlying facts alleged in the Verified Complaint and Notice of Right to Hearing. In relevant part, the Stipulation also stated that the Respondent "...denied the allegations set forth in the Verified Complaint." [Stip & Final Order, Admin. Case No. 18-3059-15, Pg. 2, ¶ 6, filed 5/6/2016.]

In exchange for the Department's agreement not to prosecute the facts and claims, Respondent¹ admitted to one violation of misrepresentation and agreed to revocation of her license.

The relevant provisions of the Stipulation are recited as follows²:

7. In consideration of the foregoing recitals, the Department and the Respondents agree:
 - a. That Ruether....admit to one violation of section 41-1016(1)(e), Idaho Code, in the misrepresentation of the terms of an actual or proposed contract or application for insurance.
 - b. That, based on the violation of section 41-1016(1)(e), Idaho Code, Ruether stipulates that her Idaho Resident Producer License No. 351383 shall be revoked for a period of one (1) year from the date of entry of the Final Order herein;
- ***
- f. That one (1) year after the revocation ...[Respondent]... may file an application for a producer license. The Department shall not unreasonably or arbitrarily refuse to issue a producer license.

¹ Respondent on behalf of her company also admitted to one violation of misrepresentation. Since the entity is not seeking re-licensure, that admission is not recited here.

² In the Stipulation, the Respondent also agreed to an administrative penalty in the amount of \$4,000 with \$1,000 being suspended on terms and the remaining amount of \$3,000 to be paid in full on or about March 2017. At the Show Cause Hearing, neither party disputed that Respondent had satisfied the administrative penalty requirement.

ANALYSIS

Although the Stipulation is largely silent as to underlying facts of Respondent's admitted misrepresentation, those facts and circumstances can be gleaned from Respondent's application submittals as well as her testimony at the hearing. Those facts are as follows:

- At all times relevant to the admitted misrepresentation, Respondent was an independent agent/producer for Allstate Insurance, selling auto and property casualty lines of insurance through Rangewood Insurance LLC;³
- Respondent was the sole owner/broker and managing member of Rangewood Insurance LLC;⁴
- Respondent allowed her husband access to her login password to "check endorsements" on the policies that she had sold for Allstate;⁵
- Respondent was hired as a producer by Blue Cross of Idaho on or about September 2014, selling health insurance products to individuals;⁶
- Blue Cross of Idaho continued to employ Respondent as an "unlicensed supervisor to train new agents and run their renewal department" after her license was revoked;⁷
- Blue Cross of Idaho has offered Respondent a position as producer if she is successful in receiving approval for a new producer license;⁸

³ Email to L. Tordjman from M. Ruether, dated June 26, 2017, P. 1, submitted as supplement to the Application.

⁴ Id. at P. 3.

⁵ Id. at P.2; and Testimony of Respondent.

⁶ Id. at P. 2.

⁷ Id. at P. 3.

⁸ Id.

Throughout her testimony at hearing and in her written materials supplementing her Application, Respondent contends that she was the victim of an abusive spouse who ultimately committed suicide in March of 2015, prior to her license revocation. Respondent asserts that it was her husband all along, and not her, who made the unauthorized entries to the Allstate policies. Respondent contends that his actions were done without her knowledge or consent. Notwithstanding, Respondent acknowledged however that she provided her husband with her password and access to her business computer.

At hearing and in her supplemental materials, Respondent testified that her attorney advised her to sign the Stipulation rather than incur the cost of litigating despite her protestations of innocence. In her supplemental materials, Respondent contends that her deceased husband destroyed all records pertaining to the altered insurance transactions. She contends that she understood and was advised by her attorney that, by the terms of the Stipulation, she could reapply for a producer license in a year. Based on these considerations, she agreed to enter into the Stipulation.

On cross-examination, the Department questioned the Respondent regarding the factual events that led up to the revocation, including identification of all employees in her former office to whom she had given access to her password, the dates of when they were employed, etc., and attempted to address her prior discussions with the insurance investigator. Respondent objected to the questioning on the events underlying the prior Verified Complaint. The Director sustained the objection in light of the Stipulation. The Department offered no direct challenge to Respondent's present-day statements. Notwithstanding, it is unclear whether additional query into Respondent's present claims that her husband committed all of the offenses would have significantly altered the final analysis.

Whether or not Respondent's admission that she misrepresented a material fact in an insurance contract was genuine, Respondent bound herself to the terms of the Stipulation and is not now seeking to undo it. To the contrary, it appears that Respondent is attempting to enforce the terms of the Stipulation as she understands them. The record shows Respondent has paid the administrative penalty in full and in accordance with the terms expressed in the Stipulation. One year has lapsed since Respondent's license was revoked, and she now seeks a new producer license.

The question is whether, based on the present record, it is unreasonable or arbitrary to refuse to issue Respondent a producer license. In that regard, Respondent's present-day recanting, if that is what she is doing, does bear some weight on the unreasonableness of refusing to issue a license. The difficulty is that, by the very terms of the Stipulation and Final Order, Respondent specifically DENIED all allegations contained in the Verified Complaint in Administrative Case No. 18-3059-15. Likewise, the Stipulation is of little assistance as it is silent as to what facts Respondent admitted to, i.e., it is unclear what the misrepresentation was that she admitted. Additionally, the Department agreed in the Stipulation to waive the right to litigate the prior bad acts in exchange for Respondent's admission and agreement to the revocation. [Stip & Final Order, P. 4, ¶¶ 8 and 10.] Thus, it is difficult, if not impossible, to test the veracity of Respondent's current statements against prior compromised facts that are not recited in the Stipulation.

Notwithstanding, as discussed above, it is clear from Respondent's testimony at hearing and the supplemental materials to her Application that, as an independent agent, Respondent allowed multiple opportunities to exist for her clients' information to be compromised or altered, or for fraudulent activity to occur. For example, Respondent testified that she allowed access to her password not just her husband, but also to her brother in-law Dustin Ruether, as well as to

other employees/agents who worked in her office.

Just as concerning, despite acknowledging a duty “to protect my clients and look out for their well-being,”⁹ Respondent makes no mention of any similar obligation to Allstate. Neither does she acknowledge the impacts the unauthorized alterations had on Allstate with regard to the payment of unwarranted additional commissions. Also troubling is Respondent’s emphasis on her spouse’s behavior without acknowledging or even giving similar emphasis to her own participation or complicity in the bad acts.

Notwithstanding, it is noteworthy that between December 2012, the date she was terminated by Allstate, and May 16, 2016, the date of the revocation, Respondent remained an active producer without further incident. During two of those years, Respondent worked as an active producer for Blue Cross of Idaho, who, despite full knowledge of her revocation, continued to employ her, albeit in an unlicensed supervisor position. Respondent submitted along with her Application several letters of character references from those with whom she has worked at Blue Cross of Idaho; each carrying with them persuasive weight. It is reasonable to conclude from this evidence that Respondent functions well under supervision.

On balance, the Director has determined that Respondent has met her burden, if only by a slight margin. As such, Respondent shall be issued a conditional producer license subject to a two (2) year probationary period during which the following restrictions and conditions shall apply:

1. Respondent shall not act as an independent agent, nor establish her own insurance agency, nor apply for a business entity producer license, nor shall she serve as the designated responsible licensed producer for an existing licensed insurance agency, in accordance with Idaho Code § 41-1007(2)(b);

⁹ Id. at P.3.

2. Prior to accepting employment as an insurance producer with an insurance agency or with an insurer directly, Respondent shall provide to the Department a written agreement with the agency or insurer setting forth the name and contact information of a supervising agent who shall be responsible for reporting to the Department every six (6) months. Such supervising agent shall be an Idaho-licensed insurance producer in good standing. Such report of the supervising agent shall include the following:
 - a. A statement regarding Respondent's employment status;
 - b. A statement identifying any concerns relating to Respondent's insurance activities, including compliance with the Idaho Insurance Code and Department rules;
 - c. A statement identifying any consumer complaints made to the agency or insurer regarding Respondent;
 - d. A statement that the supervising agent has verified the validity of a random sampling of not less than twenty percent (20%) of new policies and policy changes written by Respondent during the prior six-month period by reviewing and confirming with the insured that the policy or policy changes have been authorized;
 - e. A statement regarding whether Respondent maintains a separate fiduciary account, if required by the product line, and, if so, that the supervising agent has performed a quarterly audit of Respondent's fiduciary account to identify any anomalies.
3. Respondent shall immediately notify the Department in writing of any change in

employment, including a change in employer or position.

4. At all times during the two (2) year probationary period, Respondent shall comply with all applicable insurance laws in addition to complying with the restrictions and conditions stated herein.
5. After the completion of the two (2) year probationary period without any violations of Idaho's insurance laws and with full compliance of the restrictions and conditions stated herein, Respondent's conditional license shall automatically convert to a standard Idaho insurance producer license and the conditions placed on Respondent's license shall be lifted.

NOW THEREFORE, IT IS SO ORDERED, that Respondent shall be issued a conditional resident producer license subject to the two (2) year probationary term and the restrictions and conditions described above and incorporated herein.

IT IS FURTHER ORDERED that, if Respondent conducts business as an Idaho insurance producer in full compliance with title 41, Idaho Code, and rules promulgated thereunder, and with the restrictions and conditions described above and incorporated herein, during the entire two (2) year probationary term, at the end of such term the probationary license granted to Respondent by this Final Order shall automatically convert to a standard Idaho insurance producer license, and the restrictions and conditions described above shall be lifted.

DATED this 25th day of August, 2017.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

NOTIFICATION OF RIGHTS

This Order constitutes a final order of the Director. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Director will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See*, Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located. An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order; or (b) an order denying a 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 a petition for judicial review does not itself stay the effectiveness or enforcement of the order under appeal.

NOTICE REGARDING REPORTABLE PROCEEDINGS

The foregoing is considered a reportable administrative proceeding. As such, it is a public record and is public information that may be disclosed to other states and reported to companies as to which the Respondent is actively appointed. This information will be reported to the National Association of Insurance Commissioners (NAIC) and will appear in the online searchable database of the Idaho Department of Insurance. The Respondent should be aware that this proceeding must be disclosed on any insurance license application and must be reported to any and all states in which the Respondent holds an insurance license.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of August, 2017, I caused a true and correct copy of the foregoing FINAL ORDER to be served upon the following by the designated means:

Meaghan A. Ruether
4295 Rangewood Way
Meridian, ID 83642
meaghan.ruether@bcidaho.com

☒ first class mail
☐ certified mail
☐ hand delivery
☒ via email

John C. Keenan
Deputy Attorney General
Idaho Department of Insurance
700 W. State St., 3rd Floor
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☐ first class mail
☐ certified mail
☒ hand delivery
☐ via facsimile


Pamela Murray