

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
1511 PONTIAC AVENUE, BLDG. 69-2  
CRANSTON, RHODE ISLAND 02920**

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**IN THE MATTER OF:**

**FRANKELLY RAMON RODRIGUEZ**

**DBR No. 13IN072**

**RESPONDENT.**

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**DECISION**

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: July 23, 2013

Appearances:

For the Department of Business Regulation: Elizabeth Kelleher Dwyer, Esq.

For Respondents: No appearance by Respondent or counsel.

**I. INTRODUCTION**

This matter was assigned to the undersigned Hearing Officer on July 2, 2013, pursuant to an Order to Show Cause, Notice of Hearing and Appointment of Hearing Officer (“Order”) regarding Frankelly Ramon Rodriguez (“Respondent”) requiring Respondent to appear before the Department and answer why the Director of the Department of Business Regulation (“Department”) should not issue an order imposing administrative sanctions in accordance with R.I. Gen. Laws § 42-14-16.

The filing of Department’s Order was based on two complaints received by the Department’s Insurance Division (“Division”) from consumers alleging that the Respondent had improperly misappropriated, withheld or converted monies, and used fraudulent, coercive or dishonest practices demonstrating incompetence, untrustworthiness or financial irresponsibility. As further grounds for the issuance of its

order, the Division reports that the Respondent has failed to respond to the complaints and inquiries by the Department regarding these matters.

The matter was assigned for a hearing on July 23, 2013. The Respondent failed to appear at the show cause hearing held at the Department on that date, after having been duly served with notice of the hearing in accordance with the provisions of R.I. Gen. Laws § 42-35-9.

## **II. JURISDICTION**

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § 7-11-1 *et seq.*, R. I. Gen. Laws § 42-14-1, *et seq.*, and R.I. Gen. Laws § 42-35-1, *et seq.*

## **III. FINDINGS OF FACT**

After hearing the arguments of counsel, the testimony of the Department's witness and due consideration of the evidence presented by the Insurance Division in this matter, the undersigned Hearing Officer makes the following findings of fact:

1. Respondent was issued Rhode Island resident insurance producer license number 1048797 January 14, 2002. That license expired on March 31, 2013.
2. On December 28, 2012, the Insurance Division received a consumer complaint against the Respondent alleging that the consumer paid Respondent \$480.00 as a cash down payment, and \$1638.53 for an insurance premium on a homeowners' policy. That consumer later learned that no insurance policy had been written on the home, and that the property was uninsured. The consumer's attempts to reach the Respondent for assistance were unsuccessful.
3. On January 14, 2013, the Division received a faxed letter purported to be from this consumer withdrawing his complaint. The consumer denies he sent the letter, and reports that the Respondent asked him to sign such a letter, but the consumer refused.

4. The Division made four requests to the Respondent for an explanation of the matters set forth in the complaint. The Respondent either ignored, or provided non-responsive answers to the Division's requests.
5. In June, 2013, the Division received a second complaint against the Respondent stating that the Respondent asked a consumer to deposit \$2,200.00 into the Respondent's personal bank account at Bank of America for payment of a homeowner's policy premium for the Complainant.
6. The Respondent accepted that payment, but did not pay that premium to the insurance company.
7. The Rhode Island Automobile Insurance Plan (the "Plan") notified the Department in October of 2012 that the Respondent was in financial arrears with respect to returned commissions.
8. The Respondent entered a repayment schedule for unreturned commissions with the Plan, but failed to make the required payments under that schedule.
9. The Respondent contacted the Insurance Division in early July, 2013 and left voicemail inquiring how to renew his license, which had expired on March 31, 2013.
10. On July 2, 2013, the Insurance Division issued and caused to be served upon Respondent an Order to Show Cause and Notice of Hearing (the "Order") alleging that Respondent had violated various insurance statutes and requiring that he appear at a hearing on July 23, 2013 to answer those allegations.
11. The Order was sent to four different addresses on file with the Department by both certified mail and regular mail. The first address was listed as his residence, at 46 Sterry Street, Pawtucket, RI, the second was a business address of 204 Cranston Street, Providence, RI, and the third was a mailing address of P.O. Box 72690, Providence, RI. An additional address of 202 Cranston Street, Providence was obtained from

the Respondent's business card, which also listed a business name of First Choice Insurance Group.

12. The four certified mail envelopes containing the Order and Notice were returned to the Division marked "undeliverable" and one regular mail sent to the Post Office box was returned with the same notation by the US Postal Service.
13. The Order and Notice addressed to the Respondent at three of his last known addresses (the business addresses of 202 and 204 Cranston Street, and the residence address of 46 Sterry Street) were not returned to the Department, and are presumed to have been delivered by the U.S. Postal Service.
14. An employee of the Department physically visited the 202-204 Cranston Street address, and observed prominent signage on the building for "First Choice Insurance Group". Whereupon, she entered the building and verified that insurance was being sold on the premises.
15. The Respondent failed to appear at the hearing on July 23, 2013, and failed to defend the allegations contained in the Order to Show Cause in any manner.
16. The Respondent also failed to adequately respond to the Department's request for an explanation of the issues raised in the two complaints filed against him.
17. The Insurance Division has complied with the requirements of R.I. Gen. Laws § 42-35-9 regarding notice in contested cases, and the Respondent was afforded an opportunity for a hearing after reasonable notice.
18. Based on the documentary evidence and testimony presented by the Division at hearing, and based on Respondent's failure to appear at the hearing after receiving notice, the Division has established that the Respondent has committed violations of the following:

- a. R.I. Gen. Laws §§ 27-2.4-14(a)(2), (4), (7) and (8) by improperly withholding, misappropriating or converting monies received in the course of doing insurance business and using fraudulent, coercive or dishonest practices and demonstrating untrustworthiness and financial irresponsibility, and committing unfair insurance trade practice and fraud.
  - b. R.I. Gen. Laws § 27-2.4-19 for failing to hold funds owed to, or collected from a policyholder in a fiduciary capacity, and by illegally holding, misappropriating or converting said funds to his own use.
  - c. Insurance Regulation 73(5)(f) and Central Management Regulation 2(4)(a) by failing to adequately respond to the complaints and inquiries of the Department.
19. Based on the provisions set forth in R.I. Gen. Laws § 27-2.4-14, it is in the public interest to immediately and permanently revoke Respondent's insurance producer license.

#### **IV. CONCLUSIONS OF LAW**

1. There is sufficient cause under R.I. Gen. Laws to deny the renewal of the insurance producer license held by the Respondent pursuant to R.I. Gen. Laws § 42-14-16(a)(1), based on the evidence submitted by the Department at hearing, and also to permanently revoke that license.

2. The Department's ability to impose a civil penalty and/or require other actions for the above violations pursuant to R.I. Gen. Laws § 42-14-16(a)(4) are specifically reserved and may be asserted as deemed necessary and appropriate by the Department after notice and hearing to Respondent.

3. A default judgment against Respondent is appropriate given his failure to appear and/or defend this action pursuant to Section 21 of *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*.

**V. RECOMMENDATION**

Based on the above analysis, the Hearing Officer recommends that the Director of the Department Order that:

1. The Respondent is defaulted for his failure to appear and/or defend this administrative enforcement action;
2. Respondent's insurance producer license is permanently revoked, and any attempt to renew that license shall be denied.

DATED: 8/23/13

  
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Ellen R. Balasco, Esq.  
Hearing Officer

**ORDER**

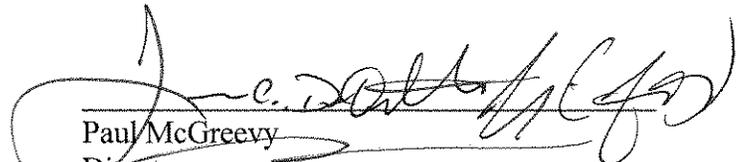
I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT

REJECT

MODIFY

Dated: 8/23/13

  
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Paul McGreevy  
Director

**THIS ORDER OF DISMISSAL CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-1 ET SEQ. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.**

**CERTIFICATION**

I hereby certify that on the 23<sup>rd</sup> day of August, 2013, a true copy of this Decision and Final Order was sent by first class mail, postage prepaid to: Frankelly Ramon Rodriguez at the following addresses: 46 Sterry Street, Pawtucket, RI 02860, 202 Cranston Street, Providence, RI 02907 and 204 Cranston Street, Providence, RI 02907. and by electronic mail to the following parties at the Department of Business Regulation:

Elizabeth Kelleher Dwyer, Esq., Deputy Chief of Legal Services

Rachel Chester, Insurance Division

Joseph Torti, Deputy Director

A handwritten signature in black ink, appearing to read "Joseph Torti", is written over a horizontal line. The signature is cursive and stylized.