

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

IN THE MATTER OF:

FRANKELLY RAMON RODRIGUEZ

RESPONDENT.

DBR No. 13IN072

DECISION
AND FINAL ORDER OF REVOCATION

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: October 14, 2015

Appearances:

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

For Respondent: Emili Vaziri, Esq.

I. INTRODUCTION

This matter was assigned to the undersigned Hearing Officer on September 14, 2015, pursuant to an Emergency Order Suspending Insurance Producer License, Notice of Hearing and Appointment of Hearing Officer (“Emergency 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.

This matter was scheduled for hearing on the Emergency Order on September 18, 2015, but it was rescheduled to September 21, 2015 at the request of counsel for the Respondent.

A pre-hearing Order was issued on September 21, 2015 which indicated that the suspension of the Respondent's insurance producer license instituted by virtue of the Emergency Order would remain in full force and effect pending further hearing, and that the Respondent was restrained and enjoined from engaging in any and all insurance producer transactions pending further hearing. This matter was continued for full evidentiary hearing to October 15, 2015.

On that date, counsel for the Respondent appeared and agreed that he would be waiving his right to hearing, as the Respondent conceded to the allegations in the Emergency Order.

The Emergency Order was based upon the Department's Insurance Division ("Division") contention that the Respondent had applied for and been issued an insurance producer license electronically on June 30, 2015, after having been notified by the Division that his previous insurance producer license had been permanently revoked by an Order of the Director on August 23, 2013 (See attached Decision marked Exhibit A and incorporated herein by reference).

That revocation had been based upon findings by the Hearing Officer that the Respondent had been defaulted for his failure to appear in that action, and that he had committed violations of R.I. Gen. Laws §§ 27-2.4-14(a)(2) (violating insurance laws or regulations), (4) (withholding, misappropriating or converting monies), (7) (unfair trade practices or fraud) and (8) (using fraudulent coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility).

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

Based on the evidence presented by the Insurance Division in its Emergency Order, and by agreement of counsel for the Respondent, in addition to administrative notice by the undersigned Hearing Officer, the following findings of fact are made:

1. Respondent was issued Rhode Island resident insurance producer license number 1048797 January 14, 2002. That license expired on March 31, 2013.
2. The Respondent's license was permanently revoked by Order of the Director on August 23, 2013 after adjudication of an Order to Show Cause filed against the Respondent by the Insurance Division as the result of consumer complaints filed against him.
3. The August 23, 2013 Order and Decision was based on findings that the Respondent had been defaulted, and was also based on the documentary evidence presented by the Division which established that he had violated 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; and also 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.
4. The Respondent was served with due notice of the Departments August 23, 2013 Decision, and he was subsequently advised by the Division that his license had been permanently revoked after he inquired as to the possibility of "renewing" his license.
5. Despite those communications, the Respondent applied for a license electronically. In doing so, he untruthfully indicated in his application

that he had never been named or involved as a party in an administrative proceeding.

6. As a result of that electronic application, made with the knowledge of the Insurance Division, an insurance producer license was issued in error to the Respondent.
7. The issuance of the Respondent's license was inadvertent, and done without the knowledge and oversight of the Insurance Division of the Department.

IV. CONCLUSIONS OF LAW

1. In consideration of the foregoing findings of fact, there is sufficient cause under R.I. Gen. Laws to permanently revoke the second license issued to the Respondent due to its being issued in error, and having been issued in direct contravention of the previous revocation order of the Director on August 23, 2013.
2. There is sufficient cause at this time to restrain and enjoin the Respondent from engaging in any and all insurance producer activities or transactions unless and until such time as he may be issued a valid license from the Insurance Division.

V. RECOMMENDATION

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

1. Respondent's insurance producer license is permanently revoked, and any attempt to renew that license shall be denied.
2. The Respondent is restrained and enjoined from engaging or participating in any and all insurance producer activities. This Order extends to any associates or agents of the Respondent who conduct or

participate in insurance producing activities or transactions on his behalf.

DATED: 1/4/16


Ellen R. Balasco, Esq.
Hearing Officer

ORDER

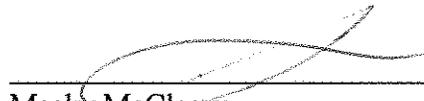
I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT

REJECT

MODIFY

Dated: 1/6/16


Macky-McCleary
Director

ENTERED as Administrative Order No. 16-02 on the 6th day of January 2016.

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 6th day of January 2016, a true copy of this Decision and Final Order was sent by first class mail, postage prepaid to: Frankely 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; to Emili Vaziri, Esq. at 160 Plainfield Street, Providence, RI 02909 and by electronic mail to the following parties at the Department of Business Regulation: Elizabeth Kelleher Dwyer, Esq., Rachel Chester, Insurance Division, and Ellen Balasco, Hearing Officer.

