

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BUILDINGS 68 AND 69
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF: :
: :
JASMINE SANTIAGO, : DBR No. 08-I-0147
: :
RESPONDENT. :
:

DECISION

Hearing Officer: Richard W. Bernstein, Esq.

Hearing Held: November 13, 2008

Appearances:

For Respondent: Jasmin Santiago, *Pro se* (failed to appear).

For the Department: Elizabeth Kelleher Dwyer, Esq.

I. INTRODUCTION

On August 26, 2008, this matter came on for a pre-hearing conference pursuant to Rule 5 of *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*. Jasmin Santiago appeared and by Order dated August 27, 2008, Respondent was ordered to: (1) show cause as to why her insurance producer license should not be suspended, revoked, or another appropriate penalty be imposed pursuant to R.I. Gen. Law § 42-14-16; and (2) to attend a hearing in this regard on November 13, 2008 at 10:00 A.M. at the Department of Business Regulation. Respondent failed to appear at the hearing on November 13, 2008. Pursuant to Rule 21 *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings*, the Hearing Officer hereby recommends the entry

of a default judgment against Respondent for her failure to defend of this action and a revocation of her insurance producer license.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws §§ 27-2.4-1, *et seq.*, 42-14-1, *et seq.*, and 42-35-1, *et seq.*

III. ISSUE

The issue presented in this matter is whether the Respondent's insurance producer license should be suspended or revoked and/or an appropriate penalty be issued pursuant to R.I. Gen. Laws § 42-14-16.

IV. FINDINGS OF FACT

1. Respondent is the holder of insurance producer license number 7908387 with property, casualty, life and accident, health or sickness lines of authority ("License"). This License was issued on November 9, 2006 and is set to expire on December 31, 2008.

2. Respondent was "certified" by the Rhode Island Automobile Insurance Plan ("Plan") which serves as the residual market for Rhode Island. This certification allowed her to place business with and receive commission from the Plan. Respondent's certification with the Plan has since been revoked.

3. Respondent placed insurance with the Plan and was paid commission in accordance with the Plan rules.

4. In accordance with the Plan rules, if an insured cancels his or her policy or the policy is cancelled by the Plan, the insurance producer must return the unearned commission for the period of time in which the policy was not in effect.

5. As a result of cancellations, Respondent owes the Plan \$8,268.76 and has owed the Plan that amount since November of 2006.

6. Respondent placed a specific policy with the Plan with an effective date of October 24, 2006 on which the insured made payments on the policy to Respondent; however, Respondent failed to make these payments to the Plan resulting in notices of cancellation being sent to the insured.

7. On two (2) separate occasions, the Department wrote to Respondent requesting a response to the concerns of the Plan concerning the unearned premium owed and of the consumer with regard to the insurance policy referenced in paragraph 6 above. Respondent did not respond to either correspondence in violation of Insurance Regulation 73(5)(F) and Central Management Regulation 2(4)(A).

8. On August 26, 2008, a pre-hearing conference was held at which Respondent appeared. Respondent provided a new home address which was duly recorded by the Department. A hearing was scheduled for November 13, 2008 and an Order was issued on August 27, 2008 which formally scheduled such hearing.

9. A copy of such Order was sent by mail and certified letter to the Respondent's new address. The certified letter was returned unclaimed, after the third attempt on September 12, 2008. The Order mailed via regular mail was not returned to the Department.

V. CONCLUSIONS OF LAW

Rule 21 *Central Management Regulation 2 – Rules of Procedure for*

Administrative Hearings provides:

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend

an action as provided by these Rules, the Hearing Officer may enter a default judgment against the defaulting Party, take such action based on the pleadings and/or other evidence submitted by the nondefaulting Party as the Hearing Officer deems appropriate in his/her sole discretion or take such other action as the Hearing Officer deems appropriate in his/her sole discretion. Challenge to such an order shall be made as a motion for reconsideration per Section 19, above.

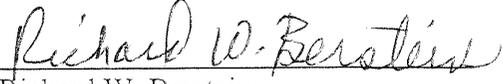
Respondent failed to appear at the Hearing on November 13, 2008. R.I. Gen. Laws § 27-2.4-14(a)(4) provides that the insurance commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license for improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business. It has been alleged that Respondent placed a policy with the Rhode Island Automobile Insurance Plan; failed to remit premiums from the insured to the Plan, resulting in a notice of cancellation to the insured; and, as a result of cancellations, Respondent has owed the Plan \$8,268.76 since November of 2006.

Given Respondent's failure to defend this action, she has not shown cause why her producer license should not be revoked pursuant to R.I. Gen. Laws § 27-2.4-14(a)(4). The Department has provided sufficient evidence that warrant this license revocation pursuant to R.I. Gen. Laws §§ 27-2.4-14(a)(4).

VI. RECOMMENDATION

Based on the evidence presented, the undersigned Hearing Officer respectfully recommends that the Director: issue an Order to revoke Respondent's producer license; require the Department to mail a copy of this Decision and Order to all states in which Respondent is known to be licensed; and refer the matter to the Attorney General.

Dated: November 20, 2008

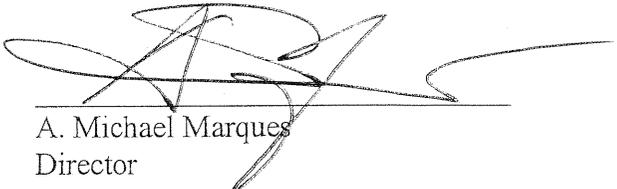

Richard W. Bernstein
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Order in this matter, and I hereby take the following action.

ADOPT
 REJECT
 MODIFY

Dated: 11-21-2008


A. Michael Marques
Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. 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 21st day of November, 2008, a copy of the within Decision was sent by first class mail, postage prepaid to the following:

Jasmin Santiago (Home)
59 Russo Street
Providence, RI 02904

Jasmin Santiago (Work)
c/o Benjamin Agency
Allstate Insurance Company
Eddie Dowling Highway
North Smithfield, RI 02895

And by hand-delivery to:

Elizabeth Kelleher Dwyer, Esq.
Department of Business Regulation
John O. Pastore Complex
1511 Pontiac Avenue, Bldgs. 68 and 69
Cranston, RI 02920

