

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Enforcement Case No. 18-15332
Agency No. 18-111-L

Petitioner,

v

Elizabeth Candia Amaya
System ID No. 0784407

Respondent.

_____ /

Issued and entered
on February 19, 2019
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

Elizabeth Candia Amaya (Respondent) is a licensed insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent violated her probation and plead guilty to felony drug paraphernalia possess/use on February 13, 2018. Respondent did not report this criminal conviction to DIFS as required by the Michigan Insurance Code (Code). Since then, Respondent has been the subject of additional criminal prosecutions that she has failed to report. After investigation and verification of the information, on October 30, 2018, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(1) and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On December 11, 2018, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address she is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to respond or take any action.

On January 16, 2019, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

II. Findings of Fact and Conclusions of Law

1. Respondent has been an active licensed nonresident producer holding the accident and health qualification since October 7, 2016.
2. On September 21, 2016, Respondent applied for her nonresident producer license and answered "yes" to question 1b of the application, which asks: "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?"
3. On or about October 3, 2016, DIFS Staff reviewed Respondent's explanation of her answer and supporting documentation. Respondent provided court documentation for Maricopa County Superior Court of Arizona, Case No. CR-2014152687, which showed that on February 29, 2016, she entered into a deferred prosecution program for the felony charge of possession or use of dangerous drugs. The prosecution of the charge was suspended for two years, and provided Respondent successfully completed probation, the felony charge would be dismissed with prejudice. Following the review, Respondent's nonresident producer license was issued on October 7, 2016.
4. On July 6, 2017, DIFS Staff sent an email to Respondent requesting proof that she had completed probation successfully and the felony charge was dismissed. Respondent did not respond.
5. On August 25, 2017, DIFS Staff sent a letter to Respondent at her mailing address of record requesting the same information. To date, the letter has not been returned from the United States Postal Service (USPS) and a response has not been received.
6. On May 21, 2018, DIFS Staff sent a follow up email inquiry to Respondent. To date, no response has been received.
7. On the same day, DIFS Staff conducted further research into Respondent's criminal background and discovered that she had violated her probation and plead guilty to the lesser charge of felony drug paraphernalia possess/use on February 13, 2018. Respondent did not report this criminal conviction to DIFS as required by the Code.
8. DIFS Staff conducted a new criminal background check and discovered that on November 16, 2017, criminal charges were filed against Respondent for assault – touching with intent to injure, Case No. M-0741-5238606 in the Phoenix, Arizona Municipal Court. Respondent did not report the charges to DIFS as required by the Code.
9. DIFS Staff also discovered that on August 16, 2018, criminal charges were filed against Respondent for Burglary 3rd Degree, Case No. CR2018-140475-001 in the Phoenix, Arizona

Municipal Court. As of the date of this document, Respondent is housed in the Maricopa County Jail, Phoenix, AZ.

10. As a licensee, Respondent knew or had reason to know that Section 1247(2) of the Code, MCL 500.1247(2), states:

(2) Within 30 days after the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the insurance producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

11. Respondent violated Section 1247(2) of the Code, MCL 500.1247(2), by failing to report the aforementioned criminal convictions within 30 days after the initial pretrial hearing date.
12. As a licensee, Respondent knew or had reason to know that Section 249(a) of the Code, MCL 500.249(a), states:

For the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the commissioner, as often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to:

(a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.

13. As a licensee, Respondent knew or had reason to know that Sections 1239(1)(b) and (f) of the Code, MCL 500.1239(1)(b) and (f), state:

(1) In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

(b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

(f) Having been convicted of a felony.


14. Respondent has provided justification for sanctions, pursuant to Sections 1239(1)(b) and 1244(1) of the Code, MCL 500.1239 (1)(b) and MCL 500.1244(1), by failing to respond to multiple inquiries sent by DIFS Staff seeking information and supporting documentation concerning Respondent's criminal history in accordance with Section 249(a) of the Code, MCL 500.249(a).
15. Respondent has provided justification for sanctions, pursuant to Sections 1239(1)(f) and 1244(1) of the Code, MCL 500.1239(1)(f) and MCL 500.1244(1), by being convicted of the aforementioned felony, which but for the deferred prosecution of it would have barred Respondent's licensure.
16. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, and/or other licensing sanctions, including revocation of licensure.
17. On October 30, 2018, an NOSC was mailed by first class mail to Respondent at her mailing address of record and one additional address at Maricopa County Jail, Phoenix, AZ. No response was received, however, the mail sent to Respondent's mailing address was returned by the USPS marked, "RETURN TO SENDER – NOT DELIVERABLE AS ADDRESSED – UNABLE TO FORWARD."
18. On October 30, 2018, an NOSC was mailed by first class mail to Respondent at her mailing address of record and one additional address at Maricopa County Jail, Phoenix, AZ. No response was received, however, the mail sent to Respondent's mailing address was returned by the USPS marked, "RETURN TO SENDER – NOT DELIVERABLE AS ADDRESSED – UNABLE TO FORWARD."
19. On December 11, 2018, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at her mailing address of record and one additional address at the Maricopa County Jail, Phoenix, AZ.
20. Having made reasonable efforts to serve Respondent and having complied with MCL 500.1238(2), Petitioner now seeks penalties up to and including REVOCATION of licensure.
21. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
22. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

III. Order

Based upon the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall **CEASE** and **DESIST** from violating the Code.
2. Respondent shall immediately **CEASE** and **DESIST** from engaging in the business of insurance.
3. Pursuant to MCL 500.249, MCL 500.1247(2), MCL 500.1239(1)(b) and (f), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0784407) is **REVOKED**.

Anita Fox, Director
For the Director:



Randall S. Gregg, Deputy Director