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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 13-0043
)	
MARIA DIAZ aka MARIA A. DIAZ aka)	FINDINGS OF FACT,
MARIA A. DIAZ-ALVAREZ)	CONCLUSIONS OF LAW,
)	AND FINAL ORDER
Licensee.)	
_____)	

TO: Maria Diaz-Alvarez
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COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiome, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Kate Reynolds, Staff Attorney, Legal Affairs Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
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Olympia, WA 98504-0255

Pursuant to RCW 34.05.434, 34.05.461, 48.04.010 and WAC 10-08-210, and after notice to all interested parties and persons the above-entitled matter came on regularly for hearing before the Washington State Insurance Commissioner commencing at 10:00 a.m. on April 29, 2013. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence. The Insurance Commissioner appeared pro se, by and through Kate Reynolds, Esq., Staff Attorney in his Legal Affairs Division. Maria Diaz-Alvarez appeared pro se.



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NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the Insurance Commissioner's Order Revoking License, No. 13-0043, entered February 5, 2013, revoking the Washington resident insurance producer's license of Maria Diaz (aka Maria A. Diaz aka Maria A. Diaz-Alvarez) ("Licensee") should be confirmed, set aside or modified. Said Order Revoking License is based on the Insurance Commissioner's ("OIC") allegations that the Licensee aided in obtaining Washington state driver's licenses for individuals who were not legal residents of Washington or the United States. The OIC alleges that the Licensee (working in conjunction with others who solicited customers nationwide who wanted a driver's license but could not show proof of U.S. citizenship which is required in all states except Washington and New Mexico) accomplished this by submitting automobile insurance applications for these customers which contained false home addresses in Washington and false driver's license numbers in order to obtain proof of insurance cards for them to the Washington State Department of Licensing and thereby obtain Washington state driver's licenses. On February 7 the Licensee filed a Demand for Hearing to contest the OIC's Order revoking her insurance producer's license for these alleged activities.

FINDINGS OF FACT

Having considered the evidence and arguments presented at the hearing, and the documents on file herein, the undersigned presiding officer designated to hear and determine this matter finds as follows:

1. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; Title 34 RCW including, for good cause shown, RCW 34.05.461(8); and regulations pursuant thereto.

2. Maria Diaz (aka Maria A. Diaz aka Maria A. Diaz-Alvarez) ("Licensee") is an approximately 30 year old individual who is a resident of Federal Way, Washington. She has held a Washington insurance producer's license since approximately 2008. She came to the United States at the age of 15, and began working for Rainwater Insurance, Inc. in approximately 2006 in an unlicensed capacity and then as a Customer Service Representative. After she obtained her producer's license in approximately 2008 she continued to work there as an insurance producer, until approximately 2012 when she left that employment. Rainwater Insurance, Inc. ("Rainwater"), is a Washington licensed insurance agency. [Testimony of Licensee; Testimony of Leah Miller, Operations Manager of Rainwater Insurance, Inc.] Since on or about April 16, 2012, she has worked as an insurance producer at Sav-On Insurance Agencies in Des Moines, WA, which handles a significant amount of non-standard and Latino insurance business. [Testimony of Richard Devitte, Operations Manager and owner of Sav-On Insurance Agencies.]

3. Washington state and New Mexico are the only states in the United States which do not require proof of United States citizenship in order to obtain a state driver's license. In order to obtain a Washington state driver's license, the Washington State Department of Licensing ("WA DOL") requires only proof that the applicant has auto insurance (specific minimum limits statutorily

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required, but proof of having at least these minimum limits is not required to be shown either to the WA DOL or on the proof of insurance card required to be shown to law enforcement). When the proof of insurance card is obtained from either the insurer or the insurance producer, it can be presented to the WA DOL and a Washington driver's license obtained without any proof of U.S. citizenship or other documents required. [Testimony of Bobby Frye, OIC Senior Investigator; Testimony of Francisco Murillo; Testimony of Miller.]

4. Individuals who live in the 48 states that require proof of U.S. citizenship before issuing their states' driver's licenses, but cannot obtain the licenses directly from those states because they do not have legal U.S. citizenship, are solicited through advertisements in Chicago, New York, Florida, Philadelphia and elsewhere. This matter originally came to the attention of the OIC when the WADOL filed a complaint with the OIC, complaining that "illegal immigrants were getting Washington driver's licenses." [Testimony of Frye.] The OIC's investigation revealed this scheme. The case of Nevo describes the scheme well: Nevo, an illegal immigrant from Brazil living in Philadelphia, answered a Philadelphia newspaper advertisement placed by Luis Reyes. Said advertisement offered to obtain driver's licenses for individuals like Nevo who could not legally obtain a Pennsylvania driver's license because he was not a U.S. citizen and could show no proof of citizenship to qualify for a Pennsylvania driver's license as required. Nevo needed a driver's license in order to show proof apparently of citizenship by this license, so that he could be employed (in Pennsylvania). Nevo responded to the advertisement and Luis Reyes told him that the cost would be \$1,000 cash to Reyes. Nevo was then directed to travel to Washington at his own cost. Vans are driven from Florida and possibly other states carrying customers to Washington to obtain Washington driver's licenses in this scheme. [Testimony of Frye.] Reyes put Nevo up in a hotel, took him to Rainwater where Murillo and the Licensee prepared the false auto insurance application for Nevo and submitted it to the insurer. Nevo was then instructed to take his proof of insurance card to the WA DOL where he obtained his new Washington driver's license as promised. Nevo was then able to return to Pennsylvania, cancel the Washington auto insurance if he had already paid for some period of coverage prior to receiving the proof of insurance card necessary to show to the WA DOI, and obtain a refund of unearned premium from the insurer, obtain his Pennsylvania driver's license just by using his Washington driver's license as proof of U.S. citizenship was no longer required if he showed his Washington driver's license, and use that Pennsylvania driver's license (or also possibly his WA driver's license alone) to obtain employment in Pennsylvania. [Testimony of Frye; Testimony of Murillo; Testimony of Miller.]

5. In order to falsely obtain the proof of insurance required by the WA DOL, the Licensee admits, and it is here found that, between March 2009 and December 2011 while she was working as an insurance producer for Rainwater, the Licensee submitted at least 37 automobile insurance applications which contained false Washington state addresses for the proposed insureds. In addition, the Licensee admits, and it is here found, that during this period the Licensee also used false driver's license numbers on some or all of these applications. [Testimony of Licensee; OIC Ex. 33, Declaration of Maria Anita Diaz dated February 3, 2012; Testimony of Miller; OIC Ex. 1, Memo to Bobby Frye from Leah Miller dated January 4, 2012; OIC Ex. 2, Email to Bobby Frye from Leah Miller with attachments dated March 19, 2012; Testimony of Frye.] The addresses the Licensee used were her own address, an address of a co-worker, co-worker Murillo's address, their family members, or contained minor variations of these false addresses. [Testimony of Miller; OIC Ex. 3 re Luis M. Alulema-Mayancefa; OIC Ex. 4 re Jose Arriaga-Mejia; OIC Ex. 5 re Arnulfo

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Cahuec; OIC Ex. 6 re Marcelino Castro; OIC Ex. 7 re Hilario Chavez; OIC Ex. 8 re Pedro Chimbo-Velesaca; OIC Ex. 9 re Alfonso G. Criollo; OIC Ex. 10 re Amilcar V. Garcia-Agustin; OIC Ex. 11 re Geovanny R. Jimenez; OIC Ex. 12 re Cesia Y. Gonzales; OIC Ex. 13 re Diana E. Gonzalez; OIC Ex. 14 re Cesia Y. Gonzalez-Amaya; OIC Ex. 15 re Hendel Gonzalez-Rivera; OIC Ex. 16 re Nery R. Guzman Guerra; OIC Ex. 17 re Nery R. Guzman Guerra; OIC Ex. 18 re Carlos R. Guaman I. Iguisaca; OIC Ex. 19 re Marcos Lopez; OIC Ex. 20 re Roni Mejia-Cruz; OIC Ex. 21 re Erick Ortiz Mogedano; OIC Ex. 22 re Jorge Gallegos Osorio; OIC Ex. 23 re Victor Cahuec Perez; OIC Ex. 24 re Clever Garcia Quispe; OIC Ex. 25 re Misael Ramirez-Bonilla; OIC Ex. 26 re Elsa Casiluiza Taco; OIC Ex. 27 re Gregoria Torres; OIC Ex. 28 re Samuel Torres; OIC Ex. 29 re Maria Diaz's driver's licenses; OIC Ex. 30, Application for insurance for Maria Diaz dated February 19, 2008; OIC Ex. 31, Application for insurance for Maria Diaz dated November 3, 2010; OIC Ex. 32, Application for insurance for Maria Diaz dated November 4, 2011; OIC Ex. 33, Declaration of Maria Anita Diaz dated February 3, 2012.] In addition, virtually all of these applications identify the occupation of the applicant as "homemaker."

6. When these individuals had received their proof of insurance card, issued by either the Licensee or the insurer, they presented the cards to the WA DOL to fulfill the statutory requirement that a proof of insurance card be shown, and they thereby then obtained their Washington driver's licenses. At that point, they could simply cancel the insurance and receive a refund if payment had been made, and return to the state in which they actually live. [Testimony of Licensee; Testimony of Leah Miller, Operations Manager at Rainwater; Testimony of Frye.] After returning to the states in which they actually reside, the customers present their new Washington driver's licenses to the licensing authority in those states and are now able to obtain driver's licenses issued by those states without having to show proof of citizenship as is normally required. This is because, apparently, those other state authorities wrongly rely on their assumption that the WA DOL must have required proof of U.S. citizenship to obtain the applicant's Washington driver's license (and their assumption would have been correct had the driver's license been from any other state but Washington and New Mexico). [Testimony of Licensee; Testimony of Miller; Testimony of Frye.]

7. Al and Sue Rainwater are the owners of Rainwater Insurance, Inc. ("Rainwater"). There are five separate offices of Rainwater throughout the region, and Francisco Murrillo and an individual named Isabel worked as insurance producers with the Licensee in one of these locations. An individual named Luis Reyes brought a substantial numbers of such customers to each of Rainwater's five offices. [Testimony of Murrillo; Testimony of Licensee.] Luis Reyes and these customers came to the Rainwater agency seeking false insurance applications in order to participate in this scheme and ultimately, illegally, be able to secure driver's licenses from the states in which they lived because they were not legally allowed to obtain them directly from those states. [Testimony of Licensee; Testimony of Murrillo.] The fact that false applications were being submitted in order to illegally obtain Washington, then other states', driver's licenses was participated in by every Rainwater office, by the Licensee, Murrillo and Isabel at their Rainwater office location, and was generally known to be being conducted. At least in the Rainwater office where the Licensee worked, each of the producer's desks had written information for their use about what steps to take to obtain Washington driver's licenses for individuals who were not residents of Washington and had no proof of U.S. citizenship. [Testimony of Licensee.] Sue Rainwater instructed the Licensee, Murrillo and Isabel to file the false applications in order to assist these customers in this scheme. Finally, in reward for the high numbers of such customers that Louis

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Reyes brought to Rainwater, Sue Rainwater gave Reyes tickets to events and possibly other things of value. [Testimony of Licensee.] Apparently, however, the Rainwater agency maintains that even though this activity had been going on in volumes since at least 2006 until 2012, Rainwater 1) not only that they did not realize producers were submitting applications after hours as prohibited; 2) but also that they did not realize that fraudulent applications were being submitted. Rainwater maintains that they just discovered it when the OIC investigator approached them in 2012.

8. There were other individuals like Reyes who brought customers to Rainwater who required the same fraudulent applications to be submitted for them, for the same reason, and were serviced by insurance producer's working for Rainwater in the same manner as is detailed in the Findings herein. [Testimony of Licensee.]

9. In the Rainwater office in which the Licensee, Murillo and others were employed as insurance producers, no business is to be conducted after business hours unless a producer is working late and being paid through use of a time card. If a producer is not on shift – or is out of the office -- then no business is to be transacted. [Testimony of Miller.] Business hours are 9:30 a.m. until 6 p.m. weekdays and 10 a.m. until 4 p.m. Saturdays. Even though this was Rainwater's rule for its producers, on many occasions over the years she participated in submitting false insurance applications, the Licensee applied for auto insurance for these customers outside of business hours and when she was not "on the time clock." Rainwater could identify this activity by going into the computer records of the various insurers it represents and identifying times and dates when specific quotes were given, applications submitted, and similar information. [Testimony of Miller.] Rainwater researched and identified this information in its computer records after the OIC began its investigation in late 2011 even though the activities at issue herein had been going on since at least 2006. [Testimony of Miller; OIC Exs. 3-28.] On January 4, 2012, Rainwater advised the OIC's investigator that it was "inclined to conduct an internal audit in our agency" of this matter. [OIC Ex. 1, Memorandum from Leah Miller, Operations Manager of Rainwater to OIC Investigator Bobby Frye dated January 4, 2012.]

10. Francisco Murillo holds a Washington resident insurance producer license. Mr. Murillo worked for Rainwater from November 2006 to December 2011, and participated in the scheme at issue herein. Mr. Murillo supervised the Licensee during all or part of the period at issue, and he was aware and participated in the activities at issue herein. [Testimony of Murillo.] In turn, Murillo's supervisor was Leah Miller. [Testimony of Miller.] Customers asked Murillo and the Licensee and the rest of the Rainwater staff in this office to submit false applications for insurance in order to effectuate the scheme described herein. Murillo provided his home address to be used falsely on these applications and occasionally when he received insurance letters at his home he would take them to the customer or the customer would pick them up from him. [Testimony of Murillo.] Mr. Murillo was terminated from employment there based upon his falsely using his own Washington home address, and the addresses of others, on insurance applications when he knew that these applicants had no Washington home address because they were not residents of Washington. Mr. Murillo supervised the Licensee. Mr. Murillo was also present when the Licensee and others handled insurance business in the manner at issue herein. Mr. Murillo also met with and knew the significant client, presumably Luis Reyes, who directed many customers to Rainwater because he knew that individuals in Rainwater were willing to assist in furnishing false residential addresses, false driver's license numbers on occasion as necessary, and submit auto insurance

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applications containing this false information to insurers so that these customers could obtain proof of insurance cards and thereby carry out this fraudulent scheme. [Testimony of Francisco Murillo.]

11. The Licensee admitted to the OIC [Testimony of Frye; OIC Ex. 33, Declaration of Diaz], and it is here found, that she has been engaged in this scheme since 2008, submitting some 300 false insurance applications, falsely using her address, Murillo's address and other variations of these addresses. The Licensee admitted, and it is here found, that she was aware of this scheme and that she knew it was illegal to submit false auto insurance applications. The Licensee also admits, and it is here found, that the Licensee knew that these customers were not planning to drive in Washington because they lived in other states, and that this scheme was being used to obtain driver's licenses in other states without having to provide the proof of U.S. citizenship which was required in those states and which they did not have. [Testimony of Licensee.] Even though she was instructed to conduct this business in this manner, she knew it was wrong. [Testimony of Licensee.]

12. Leah M. Miller appeared as a witness for the OIC under proper subpoena sent to both her and her attorney, Jerry Kindinger, Esq. of Ryan, Swanson & Cleveland, PLLC. At hearing Ms. Miller stated that her attorney knew she was appearing to testify on the date of the hearing and either did not object to, or agreed to, her appearing and testifying at the hearing without him being present. Ms. Miller has been the Operations Manager for all five of the Rainwater Insurance Company locations since on or about May 2003. In this position, she supervises virtually all of the managers and other staff in all of the five Rainwater offices. Ms. Miller presented her testimony in a detailed and credible manner and presented no apparent biases.

13. Francisco Murillo appeared by telephone as a witness for the OIC. Mr. Murillo worked as an insurance producer for Rainwater from November 2006 to December 2011, when he was terminated from employment there based on Rainwater's discovering that he had been "lending" his personal address and the addresses of others to be used fraudulently included in insurance applications to effectuate the scheme described above. Mr. Murillo supervised the Licensee during all or part of that time. Mr. Murillo participated in this activity and was present when the Licensee and others handled insurance business in the manner at issue herein. Mr. Murillo met with and knew Luis Reyes, who directed many customers to all five Rainwater offices who sought to participate in this scheme and who was given things of value from Sue Rainwater for directing these customers to Rainwater. Mr. Murillo presented his testimony in a detailed and credible manner and presented no apparent biases.

14. Bobby Frye, Senior Investigator for the OIC who investigated this matter, appeared as a witness for the OIC. Mr. Frye presented his testimony in a detailed and credible manner and presented no apparent biases.

15. Richard Devitte, Operations Manager and owner of Sav-On Insurance Agencies, a Washington licensed insurance agency where the Licensee is currently employed as an insurance producer, appeared as a witness for the Licensee. Mr. Devitte presented his testimony in a detailed and credible manner and presented no apparent biases.

16. Stephenie Devitte-Keating, who hired the Licensee to work at Sav-On Insurance Agencies, is a Human Resources specialist with that agency. Ms. Devitte Keating appeared as a witness for the

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Licensee. At the time she hired the Licensee, Leah Miller provided her with a very positive recommendation for employment in that insurance agency. Ms. Keating presented her testimony in a detailed and credible manner and presented no apparent biases.

17. Maria Diaz (aka Maria A. Diaz aka Maria A. Diaz-Alvarez), the Licensee, appeared as a witness on her own behalf. Ms. Diaz presented her testimony in a detailed and credible manner and presented no apparent biases.

18. Based upon the above Findings of Facts, it is reasonable that the OIC's Order Revoking License, No. 13-0043, revoking the Licensee's Washington insurance producer's license, should be upheld.

CONCLUSIONS OF LAW

Based upon the above Findings of Facts, it is hereby concluded:

1. The adjudicative proceeding herein was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied. This Order is entered pursuant to Title 48 RCW and specifically RCW 48.04; Title 34 RCW including, for good cause shown, RCW 34.05.458(8); and regulations pursuant thereto.

2. Pursuant to RCW 48.17.530(1), the OIC may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license, or may levy a civil penalty in accordance with RCW 48.17.560 or any combination of actions, for any one or more of numerous specific causes, including those set forth in RCW 48.17.530(1)(a) through (m).

3. By submitting insurance applications which contained information she knew was false, the Licensee violated RCW 48.17.530(1)(e).

4. By submitting insurance applications which contained information she knew was false, the Licensee used fraudulent, coercive, or dishonest practices, or demonstrated incompetence or untrustworthiness, and thereby violated RCW 48.17.530(1)(h).

5. By submitting insurance applications which included information she knew was false, the Licensee knowingly made false or misleading statements in or relative to an application for insurance to insurers and thereby committed acts contemplated by RCW 48.30.210. RCW 48.30.210 provides that a person who commits acts contemplated therein is guilty of a gross misdemeanor, and further provides that the insurance producer's license of that person may be revoked.

6. Based upon the above Findings of Facts and Conclusions of Law, it is hereby concluded that the OIC's Order Revoking License, which revokes the Washington insurance producer's license of Maria Diaz aka Maria A. Diaz aka Maria A. Diaz-Alvarez, should be upheld.

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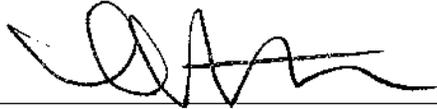
ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law,

IT IS HEREBY ORDERED that the Washington State Insurance Commissioner's Order Revoking License No. 13-0043, which revokes the Washington insurance producer's license of Maria Diaz aka Maria A. Diaz aka Maria A. Diaz-Alvarez, is **UPHELD**.

IT IS FURTHER ORDERED that the Licensee shall surrender her Washington insurance producer's license to the Office of the Insurance Commissioner by mail or delivery to P.O. Box 40255, Olympia, WA 98504-0255 or 5000 Capitol Blvd., Tumwater, WA 98501 with 15 days of the date of entry of this Order.

ENTERED AT TUMWATER, WASHINGTON, this 10th day of September 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA D. PETERSEN, J.D.
Chief Presiding Officer

Pursuant to RCW 34.05.461(3), the parties are advised that they may seek reconsideration of this order by filing a request for reconsideration under RCW 34.05.470 with the undersigned within 10 days of the date of service (date of mailing) of this order. Further, the parties are advised that, pursuant to RCW 34.05.514 and 34.05.542, this order may be appealed to Superior Court by, within 30 days after date of service (date of mailing) of this order, 1) filing a petition in the Superior Court, at the petitioner's option, for (a) Thurston County or (b) the county of the petitioner's residence or principal place of business; and 2) delivery of a copy of the petition to the Office of the Insurance Commissioner; and 3) depositing copies of the petition upon all other parties of record and the Office of the Attorney General.

Declaration of Mailing

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Maria A. Diaz-Alvarez, Mike Kreidler, James T. Odiome, John F. Hamje, Esq., Marcia Stuckler, Esq., and AnnaLisa Gellermann, Esq.,

DATED this 12th day of September 2013.


KELLY A. CAIRNS