

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



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OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 13-0139
)	
GERONIMO R. VILLARREAL and)	ORDER TERMINATING
VILLARREAL INSURANCE AND)	PROCEEDING
TAXES,)	
)	
Respondents.)	
)	
)	

TO: Geronimo R. Villarreal
Villarreal Insurance and Taxes
356 East Hemlock Street
Othello, WA 99344

Carlos D. Villarreal, Esq.
Villarreal Law Office PLLC
7103 W. Grandridge Blvd. Suite C
Kennewick, WA 99336

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Anna Lisa Gellermann, Esq., Deputy Commissioner, Legal Affairs Division
Andrea Philhower, Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On May 9, 2013, the Washington State Insurance Commissioner (OIC) issued a Notice to Show Cause to Geronimo R. Villarreal and Villarreal Insurance and Taxes (collectively,



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"Respondents"). Said Notice to Show Cause provided notice to the Respondents that the OIC intends to enter an order revoking the Respondents' respective insurance licenses for violations of the insurance code unless Respondents show cause at hearing why such action should not be taken. As the basis for the proposed revocation, the OIC alleged: (1) that the Respondents have failed to retain for five years a record of all transactions consummated under their licenses in an organized form, in violation of RCW 48.17.470(1)(a)(i) and (2); (2) that Respondents are responsible under the law of agency for their employee's failure to promptly account for and pay a consumer's premiums to the insurer entitled to them, in violation of RCW 48.17.480(2) and (3); (3) that Respondents failed to take the corrective actions as instructed by the OIC following an OIC financial examination, as evidenced by two OIC examination reports; and (4) that Respondents have failed to have a Designated Responsible Licensed Person (DRLP) oversee the activities of the agency as Geronimo R. Villarreal, the designated licensed producer (DR LP) for Villarreal Insurance and Taxes, has been out of the country and absent from the agency for very long periods of time. As such, the OIC asserts that the Respondents are untrustworthy and a source of injury and loss to the public as contemplated by RCW 48.17.470.

On June 13, 2013, the undersigned held a first prehearing conference in this matter, which included all parties. The OIC was represented by Andrea Philhower, Esq., Staff Attorney in the OIC's Legal Affairs Division. The Respondents were represented by their attorney, Carlos D. Villarreal, Esq. of Kennewick, Washington. Also participating in the prehearing conference was Tony Villarreal, an unlicensed individual who is the brother of Respondent Geronimo Villarreal, is part owner of Respondent Villarreal Insurance and Taxes and is also the acting manager of Respondent Villarreal Insurance and Taxes. The undersigned reviewed procedure to be expected at hearing and answered all questions and concerns of the parties. Of significance, Respondents' attorney advised that Respondent Geronimo Villarreal was in Columbia at this time but was expected to return to the United States in September 2013. Respondents' attorney requested that the hearing be held over the telephone or by Skype; the undersigned determined that this would not result in adequate compliance with Title 34 RCW given the particular situation. Respondents requested that the hearing be scheduled after Respondent Geronimo's return to the United States in September, and the OIC raised no objection at that time. For that reason, following the prehearing conference when Respondents' attorney had had time to check with Respondent Geronimo Villarreal, the parties agreed that this hearing should be held commencing on August 27, 2013 with the understanding that Geronimo Villarreal need not be present on that date, however, should it be determined at hearing that his presence is necessary then the hearing would be continued or the hearing record would be left open to allow his testimony and any further evidence and argument related thereto at a time shortly thereafter when he can be present.

Thereafter, prior to the hearing, on August 23, 2013, the OIC filed a Consent Order Setting Conditions for Probationary Licenses and Imposing a Fine, No. 13-0251 with the undersigned. This Consent Order was executed by Geronimo R. Villarreal and by Andrea L. Philhower, OIC Staff Attorney, on August 20, 2013. A copy of the Consent Order Setting Conditions for Probationary Licenses and Imposing a Fine is attached hereto and is by this reference incorporated herein.

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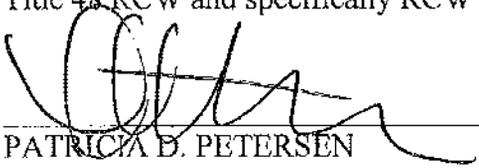
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Relative to Consent Order, Setting Conditions for Probationary License and Imposing a Fine, No. 13-0251, it is noted that this case was settled prior to the commencement of an adjudicative proceeding. Therefore, for purposes of clarification, while this Consent Order includes statements identified as "Findings of Facts" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the referenced Consent Order which are entitled "Findings of Fact" and "Conclusions of Law" are only statements that are agreed upon privately between the parties.

Based upon the above activity,

IT IS HEREBY ORDERED that, by agreement of the parties as set forth in Consent Order Setting Conditions for Probationary Licenses and Imposing a Fine executed by Geronimo R. Villarreal and by the Commissioner on August 20, 2013, the parties have fully settled this matter, and the proceedings herein, Docket No. 13-0139, is dismissed with prejudice. For purposes of clarification, while the referenced Consent Order includes statements identified as "Findings of Fact" and "Conclusions of Law," these are not Findings of Fact or Conclusions of Law which were made by an adjudicator after an adjudicative proceeding; rather, the statements contained in the attached Consent Order entitled "Findings of Fact" and "Conclusions of Law" are only statements agreed upon between the parties themselves.

ENTERED AT TUMWATER, WASHINGTON, this 25th day of September, 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and Title 34 RCW and regulations applicable thereto.



PATRICIA B. PETERSEN
Chief Presiding Officer

Attachment

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 above identified individuals at their addresses listed above.

DATED this 25th day of September, 2013.



KELLY A. CAIRNS

4. The consumer alleges that he never received any notices of unpaid premiums or notices of lapses in his insurance coverage. The documents show that, on November 28, 2011, Ms. Castillo changed the address given to the insurance companies for the consumer from his home address to the address of the Agency. Ms. Castillo admits that she used the Agency's address for the consumer. She alleges that he told her that he only wanted to receive his proof of insurance cards - and nothing else - by mail. There is no evidence that she ever asked him for permission, or told him that she was going to change his address so that all correspondence related to his auto insurance would be received by the Agency.

5. The documentation in this matter is voluminous and does not fit neatly together. The consumer provided copies of some receipts, allegedly from the Agency for his cash payments. However, he does not have receipts for all of his payments from the time Ms. Castillo originally became his insurance producer in approximately 2005. In addition, the receipts do not have policy numbers on them, frequently do not list the name of the insurer, are for cash amounts and dates that do not correspond with the premium amounts and dates on the insurance documents, and dates of coverage seem to overlap. OIC was unable to recreate Ms. Castillo's actions with respect to this consumer's coverage. However, the documents clearly show that the payments made by Ms. Castillo for the consumer's coverage were for the monthly payment option (not payment in full for the entire coverage period) and were less than the amounts shown on the cash receipts. The documents also show lapses in coverage and cancellations for nonpayment of premiums.

6. When contacted by OIC during the investigation of this matter, Ms. Castillo denied misappropriating or converting any of the consumer's premium payments. However, she did admit, "Yes I was neglectful in applying payments on time and I would do as I remembered."

7. Ms. Castillo was unable to produce records of the consumer's payments or of his insurance coverage. The Agency did not have records of the consumer's coverage in response to OIC's requests, but rather needed to obtain them from the insurers.

8. Ms. Castillo is no longer employed with Villarreal Insurance & Taxes. Her employment ended in early 2012.

9. As a result of the findings in its investigation of the complaint, OIC determined that a financial examination of the Agency was necessary.

The First Financial Examination

10. As part of the First Financial Examination of the Agency (the "First Exam"), an OIC Financial Examiner conducted an on-site examination of the Agency's records. The Agency's DRIP was not present. Instead, his son, Tony Villarreal, answered the Examiner's questions and provided access to the financial records of the agency.

11. The First Exam showed that the Agency failed in several ways to keep records as required under the Insurance Code. As a result, there was no way to track consumer premium payments or payments to parties entitled to the funds.

12. The First Exam also showed that the Agency's separate premium account had recurring shortages, which Tony Villarreal reported that the Agency had addressed by attaching a \$5,000.00 line of credit to the account as overdraft protection. There were records of \$6,700.00 in business loan advances to the separate premium account between May and October, 2011. Two of these charges were for the Agency, rather than an insurer, paying a consumer's \$2,053.95 claim to a collision shop. Bank charges for overdrafts aggregated to \$1,485.00 for the first 9 months of 2012, and the account was overdrawn on the most current statement available at the time of the exam.

13. The separate premium account was not reconciled. Tony Villarreal stated that he scans the bank statement when it arrives.

14. When it was concluded, the OIC Examiner notified the Agency that this was an unacceptable examination. The Examiner then drafted the First Examination Report setting forth her findings. The First Examination Report also included instructions to the Agency to correct the violations that were found.

15. The First Examination Report was provided to the Agency. It included notification to the Agency that OIC would be conducting a Financial Re-examination on March 12, 2013.

The Second Financial Examination

16. Three weeks prior to the date for the scheduled re-examination, the OIC Financial Examiner contacted the Agency. She sent a certified letter, fax, and email reminding DRLP Jerry Villarreal and the Agency of the re-examination and requesting that Jerry Villarreal notify her of the status of his and the Agency's efforts to correct the compliance violations in the Report of Examination.

17. There was no response to this request, either from Jerry Villarreal or from anyone on behalf of the Agency.

18. The Examiner called the Agency on March 8, 2013, to confirm the exam appointment and ask about the changes made by the Agency in response to the Examination Report. She spoke to Tony Villarreal.

19. During this phone call, Tony Villarreal reported that no changes have been made to the Agency's operating procedures, and the Agency has not implemented any accounting system. He said that he believes Sandra Castillo had been the problem with the Agency in the past, and she is no longer with the agency. He stated that he does not believe that he should have to change the way the Agency operates. Mr. Villarreal said that, if the examiner returned to the Agency, he could provide bank statements showing that he has made deposits, but they would also show that the balance was negative. He stated he did not know what else he could provide.

20. Tony Villarreal stated that he has not filed a police report regarding the money allegedly taken by Ms. Castillo. He reported that, as of the week then ended, the Agency's separate premium account was overdrawn, and that he had to transfer \$2,000 of his own money to the account, so that the account has had a positive balance for the past ten days.

21. As a result of these statements, the OIC financial examiner sent an email to the Agency

asking a series of questions to be answered in writing, in order to determine whether a re-examination was necessary. This list of questions asked specifically what changes had been made in response to each of the instructions in the First Exam Report. The response, signed by Tony Villarreal, did not set forth any change made as a response to any of the instructions. At best, it suggests that Tony Villarreal and the newly-licensed agent now affiliated with the Agency, Laconda Braziel, were monitoring the existing system of bookkeeping more closely.

22. On March 25, 2013, the OIC Examiner conducted a second on-site examination of the Agency. She met with Tony Villarreal, who stated that he was the acting owner/manager of the Agency. Tony Villarreal answered the Examiner's questions and provided access to the Agency's records available for examination. He stated that DRLP Jerry Villarreal remained out of the country.

23. The Second Exam showed that the Agency had not followed Instruction #1 from the First Exam. The Agency still had no accounting system, and the amounts computed for deposit based upon handwritten daily logs did not match the actual amounts deposited to the bank.

24. The Agency also had not followed Instruction #2 from the First Exam. The Agency had failed to correct the shortage in the separate premium account or to implement any internal control procedures to stop the continuing overdrafts.

25. There were overdraft charges of \$2,561.00 and bank fees of \$188.68 charged to the account from October, 2012 through February, 2013. The overdrafts went from a low of \$122.44 in December, 2012 to a high of \$1,289.67 in January, 2013. Due to the lack of records, the Examiner had to estimate the amount that would need to be deposited into the separate premium account to correct the overdraft and cover the outstanding sweeps. She estimated the total shortage in the account to be \$2,907.57.

26. The Agency had not followed Instruction #3 from the First Exam. The Agency had failed to begin a process of reconciling the separate premium account.

27. The Agency had partially followed Instruction #4 from the First Exam. The Agency had recently begun charging fees, and it was found that the Agency was attempting to use the proper fee disclosure forms, though they were not filled out correctly. The Examiner learned that Ms. Braziel, the only licensed producer regularly present in the Agency, was not given access to the information necessary to fill out the forms.

The Missing DRLP

28. Each insurance agency in Washington is required to have a Designated Responsible Licensed Person ("DRLP") who is "responsible for the business entity's compliance with the insurance laws and rules of this state". RCW 48.17.090(3)(b).

29. Ms. Castillo was not the DRLP for Villarreal Insurance and Taxes. Laconda Braziel, the licensed person now on site at the Agency, is not the DRLP. That person was Geronimo R. ("Jerry") Villarreal. Jerry Villarreal held a Washington resident producer's license, WAOIC #232334, issued March 21, 1984.

30. OIC could not determine from the records, Ms. Castillo's statements, and the statements

of various witnesses exactly how often Jerry Villarreal is in the office, or how much oversight he does of the Agency. However, the evidence is clear that the DRLP has been absent from the agency for months at a time.

31. Moreover, Mr. Villarreal's son, Tony Villarreal is not a licensed Insurance Producer, but was nonetheless running the insurance agency. The responses to OIC's questions included this exchange:

OIC: "What is your role in the business enterprise (the respondent to this email)? Please state what services or oversight you provide."

Tony Villarreal: "I am currently the acting owner/manager of Villarreal Ins & Taxes. My primary areas of services is: accounting, payrolls, filing of state and federal quarterly reports, federal income tax preparation. Though I am not licensed I oversee the day to day P&C operations, reconciliations and deposits."

32. The Examiner noted in the Financial Re-Examination of Villarreal Insurance and Taxes, dated April 8, 2013 ("Second Exam Report") the responsibility of the DRLP, including:

Assuring that the business processes and internal controls are sufficient to ensure funds received constituting premiums and return premiums are properly handled, accounted for, and paid to the party entitled to the funds (insurer, broker, or insured); required records are maintained; accounts are reconciled; and fees charged to insureds are properly disclosed in compliance with RCW 48.17.250.

33. The Examiner included an additional Instruction #5 to the Second Exam Report, instructing the Agency and the DRLP to comply with the Insurance Code by "Providing the business oversight necessary to ensure the Agency complies with the Insurance laws and rules of the state of Washington."

34. The Second Financial Exam was closed as an unacceptable examination.

CONCLUSIONS OF LAW:

1. By failing to keep and retain for five years a record of all transactions consummated under its license in an organized form, the Agency violated RCW 48.17.470.
2. Ms. Castillo's failure to promptly account for and pay the consumer's premiums to the insurer entitled to them violated RCW 48.17.480. The licensee is responsible for this violation under the law of agency as Ms. Castillo's employer/principal.
3. By failing to account for and maintain in a separate account all funds representing premiums or return premiums received, the Licensee violated RCW 48.17.600.
4. By failing to handle funds according to the requirements of WAC 284-12-080, and to establish and maintain an accounting system as required by that regulation, the Licensee violated WAC 284-12-080.
5. By failing to make the corrections required in the First Examination Report, the Agency has continued to violate each of the statutes and regulations cited in the First Examination

Report, in addition to a violation of RCW 48.17.530(1)(b).

6. Under RCW 48.17.530(1)(b), (d), (g), and (h), the Licensee's actions authorize the OIC to revoke, suspend, or place its license on probation under the terms of subsection (5) of that statute.

CONSENT TO ORDER:

Villarreal Insurance & Taxes, acknowledging its duty to comply fully with the applicable laws of the State of Washington, consents to the following in consideration of its desire to retain its Insurance Producer's license and to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle this matter in consideration of the terms set forth below.

1. OIC seeks to impose a fine of \$1000 against the Licensee, and to convert its Insurance Producer's license to a probationary license under RCW 48.17.530, on the conditions set forth below:

- a) The Licensee will name Laconda Braziel as the Designated Responsible Licensed Person for the Agency, as approved by the OIC pursuant to this Consent Order. Further, the Agency will provide all authorizations and documentation necessary for Laconda Braziel to fulfill her obligations as DRLP under the Washington Insurance Code.
- b) Beginning on the 25th of the first month following entry of this Order, Licensee must provide the Insurance Commissioner the following financial records by the 25th of each month for the previous month:
 - A. Copies of the monthly bank reconciliation;
 - B. Copies of the bank statements for the agency's separate and operating accounts;
 - C. Copies of itemized bank deposit slips;
 - D. Copies of the check registers for the agency's separate and operating accounts;
 - E. Copies of commission statements from insurance companies for all agency business transacted through the separate premium account for the month;
 - F. Copies of the separate premium account sweep report from all insurers with transaction activity for the month;
 - G. Copies of the account current billing statements from other brokers, if any;
 - H. Copies of disclosure of agency/producer fees being charged, if any;
 - I. Copies of the general ledger activity for both the separate and operating accounts and fee income (fee income only if applicable); and
 - J. Copy of the Licensee's Transaction Receipt report for the month.

- c) The items listed in paragraph 2.b. above will be sent monthly via electronic correspondence in .pdf format, or by hard copy via U.S. mail, addressed to the Supervising Financial Examiner at:

Mary Tunis
Office of the Insurance Commissioner
Insurance 5000 Building
PO Box 40257
Olympia, WA 98504-0255
maryt@oic.wa.gov

- d) Licensee will remain current at all times with the recordkeeping requirements set forth in the Washington Insurance Code.
- e) The Licensee will provide the records identified in paragraph 2.b. above monthly for 24 months following entry of this Order. Additionally, the Licensee will provide additional documents normally and customarily maintained by the Agency, upon request, and cooperate fully with the Examiner by providing answers to questions or issues that arise during review of the documents submitted. At the discretion of the Supervising Financial Examiner, if the requested records are provided by the 25th of each month and comply fully with the requirements of paragraph 2.b. above, the Supervising Financial Examiner may release the Licensee from the requirement for further monthly financial record submissions at any time following the end of the first twelve month period.

2. For the period of four years from the entry of this Order, if any administrative action is taken against any license the Licensee holds with any state, any action taken against the Licensee by FINRA, or if the Licensee is convicted of any criminal violation, Licensee's probationary Washington Resident Insurance Producer's license will be revoked.

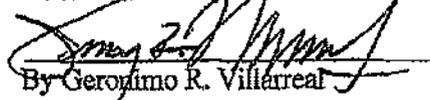
3. Under the terms of its probationary license, until the four-year probationary period has passed, if the Licensee fails to provide proof of appropriate recordkeeping as agreed, the Licensee's probationary Washington Insurance Producer's License will be revoked at the discretion of OIC. Licensee will be eligible to obtain a full, non-probationary License upon successful completion of the four-year probationary period.

4. Any future failure to comply with the statutes and regulations governing the insurance and securities industries, or future conviction of a crime other than misdemeanor traffic violations, will constitute grounds for any further penalties which may be imposed in direct response to such further violation, in addition to the revocation of its probationary Washington Insurance Producer's license.

5. Any failure to timely pay the fine of \$1000 shall constitute grounds for revocation of the Licensee's Washington Insurance Producer's license, and shall result in the recovery of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED this 20th day of Aug, 2013.

VILLARREAL INSURANCE & TAXES


By Gerónimo R. Villarreal
Authorized signatory of Licensee

ORDER

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Villarreal Insurance & Taxes shall comply with the conditions set forth above.
2. Upon receipt by OIC of this signed Consent Order, Licensee's Washington Resident Insurance Producer's license will be converted to a probationary license.
3. Licensee shall comply with and carry out all applicable laws governing the insurance and securities industries in all states in which the Agency does business, and will also comply with all criminal laws.
4. Licensee's failure to comply with the terms of its probationary licensure shall result in the revocation of its Washington Resident Insurance Producer's license and in any other enforcement action which may be taken as a result of any further violation.

ENTERED this 20th day of Aug, 2013.

MIKE KREIDLER
Insurance Commissioner

By: 
Andrea L. Philhower,
Staff Attorney - Legal Affairs