

MIKE KREIDLER
STATE INSURANCE COMMISSIONER



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 of a true copy of this document to Parties listed below
DATED this 26th day of August 2005 at Tumwater, Washington.

Signed: Wendy Galloway

OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT
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FILED

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In the Matter of:) NO. D05-105
)
ANA P. GOMEZ) FINDINGS OF FACTS, CONCLUSIONS
) OF LAW, AND ORDER ON HEARING
Licensee.)
_____)

TO: Ana P. Gomez
P.O. Box 1983
Issaquah, Washington 98027

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
John F. Hamje, Deputy Commissioner, Consumer Protection
Carol Sureau, Deputy Commissioner, Legal Affairs
Katherine A. White, Staff Attorney, Legal Affairs
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Pursuant to RCW 34.04.090, 34.04.120, 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 Insurance Commissioner for the state of Washington (OIC) on June 17, 2005, in Tumwater, Washington. 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 Commissioner was represented by Katherine White, OIC Staff Attorney. Ana P. Gomez (Licensee) appeared pro se.

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



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parties of record and the Office of the Attorney General in the United States mail. If a party chooses to file a petition in the Superior Court, he or she may, but is not required to, first file a request for reconsideration. For further information or to obtain copies of the applicable statutes, the parties may contact the administrative assistant to the undersigned.

NATURE OF PROCEEDING

The purpose of the hearing was to take testimony and evidence and hear arguments as to whether the OIC's Order Revoking License, No. D05-105, entered by the OIC on March 18, 2005, should be confirmed, set aside or modified. Said Order Revoking License revokes the insurance agent's license of Ana P. Gomez based upon facts alleged therein. The Licensee requested this hearing to contest this Order Revoking License.

FINDINGS OF FACTS

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.
2. The Licensee is an individual who has been licensed as an insurance agent in the state of Washington since January 2001. [Testimony of Licensee.]
3. The Licensee received a Bachelor of Science degree in Economics, with an emphasis on Management, from The Wharton School, University of Pennsylvania, in June 1994. [Testimony of Licensee; Ex. L1, Resume of Ana Patricia Gomez.] She has worked in the business arena, first in Bogota, Columbia and then immigrating to Washington state. Pertinently, from January 2001 until January 2002 she worked as a Sales Associate for AFLAC in Bellevue, Washington. From January 2002 until January 2005 she worked as District Sales Coordinator for AFLAC, where she achieved quarterly Management Awards for 10 consecutive quarters, surpassed all quarterly and annual sales quotas, received Top District in the Region in 2003 and coordinated insurance sales and marketing strategies for the region's top selling district. [Resume of Ana Patricia Gomez, Ex. L1.]
4. During the period from June 2004 through September 2004, the Licensee signed 73 separate signatures of insureds and other insurance agents, without their knowledge or consent. In addition, some of these 73 signatures were not real people but instead were names of nonexistent people which the Licensee made up, and whose names she signed to look as if they were real people who had actually signed the subject insurance documents. These 73 separate signatures were signed on various insurance documents during 23 separate occasions. [Admission of Licensee during Testimony of Licensee; Exs. 1-12, 14, 16-17, 20-24.]

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5. The Licensee signed the signatures of insureds, other agents and nonexistent individuals in order to be more successful in competing in AFLAC's quotas and contests based upon amounts of production of insurance business for AFLAC. She received no direct financial gain from signing these signatures. [Testimony of Licensee.]

6. Based upon the above Findings of Facts, the Licensee has shown herself to be, and is here so deemed to be, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington.

7. Ana Patricia Gomez, the Licensee, was called by the Commissioner as a witness in this matter and presented testimony in response to his questions. She also appeared as a witness on her own behalf. On each occasion, the Licensee presented her testimony in a detailed, clear and credible manner. She readily admitted committing the forgeries as alleged by the Commissioner. She appeared to be very remorseful. In addition, she clearly regrets these activities as mistakes, although she did not address why sheer competition, rather than financial gain or other motives, should have been sufficient motivation for activities as serious as the subject forgeries.

8. Laurie Woodson, who resides in the state of Georgia and is employed as an investigator by AFLAC, appeared as a witness on behalf of the Commissioner. Her testimony was detailed, clear and credible, and she exhibited no apparent biases.

9. Kimberly Jane Moger of Bellevue, Washington, who is a licensed insurance agent working for AFLAC and is a friend and colleague of the Licensee, appeared by telephone as a witness on her behalf. Ms. Moger presented her testimony in a detailed, clear and credible manner, presenting information only as to the good work ethics and character of the Licensee. It is of note, however, that on cross examination she admitted that she was not aware of the activities with which the Commissioner has charged the Licensee in this proceeding.

10. Edna Martin of Seattle, Washington, who is a licensed insurance agent who worked for AFLAC, including working with the Licensee as the Licensee's supervisor for several years there, appeared by telephone as a witness on her behalf. Ms. Martin presented her testimony in a detailed, clear and credible manner, presenting information only as to the good work ethics and character of the Licensee. It is of note, however, that on cross examination she admitted that she was not aware of the activities with which the Commissioner has charged the Licensee in this proceeding.

11. Based upon the activities of the Licensee as set forth in the facts found herein, it is here found that the Insurance Commissioner's Order Revoking License, No. D05-105, entered March 18, 2005, is reasonable under the circumstances and should be upheld.

12. The undersigned recognizes recent case law which draws into question the proper standard of proof to be applied in administrative cases involving some types of professional licenses, and recognizes that such cases involving insurance agents' licenses have not been addressed. In recognition of the question that this recent case law raises, however, the undersigned has applied

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both the "clear cogent and convincing" standard of proof and the "preponderance of the evidence" standard of proof, and finds the above facts under application of either the lower or the higher standard of proof.

CONCLUSIONS OF LAW

1. Pursuant to the Findings of Facts above relative to her activities in some cases in signing the names of individuals without their knowledge or consent on insurance documents, and in other cases making up the names of nonexistent individuals and then signing their names on insurance documents, it is hereby concluded that the licensee has demonstrated herself to be, and has been so deemed to be, untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington as contemplated by RCW 48.17.530(1)(h). Therefore, pursuant to RCW 48.17.530, the insurance agent's license of Ana Patricia Gomez should be revoked.

2. Based upon the Findings of Facts herein, and Conclusions of Law directly above, it is hereby concluded that the Insurance Commissioner's Order Revoking License, No. D05-105, entered against Ana Patricia Gomez on March 18, 2005, should be upheld.

ORDER

On the basis of the foregoing Findings of Facts and Conclusions of Law, to the effect that the Licensee has shown herself to be untrustworthy and a source of injury and loss to the public and not qualified to be an insurance agent in the state of Washington as contemplated by RCW 48.17.530(1)(h) and that therefore her insurance agent's license should be revoked pursuant to RCW 48.17.530,

IT IS HEREBY ORDERED that the Commissioner's Order Revoking License, No. D05-105 entered March 18, 2005, is upheld,

IT IS FURTHER ORDERED that the Licensee's insurance agent's license shall be surrendered to the Office of the Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255 by close of business on September 13, 2005.

This Order is entered pursuant to RCW 34.05, WAC 10-08-210 and RCW 48.04.010.

THIS ORDER IS ENTERED AT TUMWATER, WASHINGTON, this 26th day of August, 2005.



PATRICIA D. PETERSEN
Presiding Officer