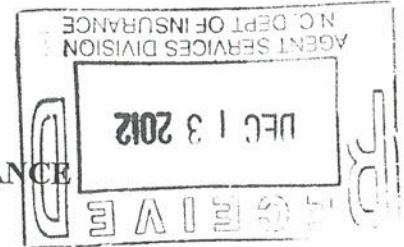


NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA



Docket Number: D-1629

STATE OF NORTH CAROLINA

BEFORE THE COMMISSIONER
OF INSURANCE

COUNTY OF WAKE

IN THE MATTER OF
THE LICENSURE
OF ILSA NOEMI ZAVALA

ORDER AND FINAL AGENCY
DECISION REVOKING LICENSE

THIS CAUSE came on to be heard on 1 August 2012 before the undersigned Hearing Officer, as designated by the Commissioner of Insurance, pursuant to N.C. Gen. Stat. §§ 58-2-55, 58-33-26, 58-33-30, 58-33-32, 58-33-46, 150B-38, and other applicable statutes and rules.

The Agent Services Division of the North Carolina Department of Insurance (Agent Services) was represented by Brandon L. Truman, Assistant Attorney General.

Respondent Ilsa Noemi Zavala (Zavala) was present and was not represented by counsel.

Agent Services offered into evidence Exhibits A through D, 1 through 16, and 19 through 21. Respondent offered into evidence Respondent's Exhibits 1 through 3. The foregoing Exhibits were admitted into evidence.

After careful consideration of the evidence and arguments presented, and based on the record as a whole, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Notice of Administrative Hearing was properly served on the Respondent.
2. NCDOI has the authority and responsibility for the enforcement of insurance laws of

this State and for licensing and regulating insurance agents in this State.

3. Zavala was issued a license on or about 26 February 2010 by the Maryland Insurance Administration for Zavala to act as an insurance producer in the state of Maryland. Her insurance license number in the state of Maryland was 0010354805.

4. Zavala was granted an insurance producer license on or about 7 July 2011 by NCDOI's Agent Services Division to transact insurance in the areas of Life, Accident & Health or Sickness, Property and Casualty. Her NPN number is 10354805.

5. Prior to Zavala's licensure in North Carolina and unknown to Agent Services at the time of Zavala's application for licensure in North Carolina, it was alleged that Zavala completed and submitted applications for life insurance policies for persons in the state of Maryland who did not actually apply for the said policies, as follows:

- a. As of August 2010, Zavala was employed as a producer at a Maryland branch of State Farm Life Insurance Company (State Farm) owned by Felicia Everett.
- b. On or about 23 August 2010, Zavala completed an application for life insurance through State Farm on behalf of Ever Diaz (Diaz).
- c. It was alleged that Zavala completed and submitted the application for a life insurance policy for Diaz without the knowledge and consent of Diaz.
- d. As a result of Zavala submitting this life insurance application, a life insurance policy through State Farm was issued to Diaz on or about 2 September 2010, with policy number LF-xxxx-3636 (policy number LF-xxxx-3636).
- e. It was alleged that the issuance of policy number LF-xxxx-3636 caused Diaz's bank account to be debited monthly by State Farm without Diaz's consent.

- f. After numerous requests by Diaz, policy number LF-xxxx-3636 was canceled by State Farm.
- g. On or about 27 August 2010, Zavala completed and submitted an application for life insurance through State Farm on behalf of her nephew Jonathan Zavala (Jonathan), a minor child who was two years of age at the time of the insurance policy application.
- h. It was alleged that at the time that Zavala completed and submitted the application for a life insurance policy for Jonathan, Zavala did not obtain parental consent to complete or submit an application for a life insurance policy on behalf of Jonathan.
- i. As a result of Zavala submitting this life insurance application, a life insurance policy through State Farm was issued on behalf of Jonathan on or about 27 April 2010, with policy number LF-xxxx-7900 (policy number LF-xxxx-7900).
- j. It was alleged that Jonathan's parents were unaware that policy number LF-xxxx-7900 was issued on behalf of Jonathan.
- k. On or about 28 December 2010, Zavala completed and submitted an application for additional life insurance through State Farm on behalf of Jonathan, who was three years of age at the time of the insurance policy application.
- m. It was alleged that at the time that Zavala completed and submitted the application for an additional life insurance policy for Jonathan, Zavala did not obtain parental consent to complete or submit an application for a life insurance policy on behalf of Jonathan.
- n. As a result of Zavala submitting this additional life insurance application, a life

insurance policy through State Farm was issued on behalf of Jonathan on or about 28 December 2010, with policy number LF-xxxx-9513 (policy number LF-xxxx-9513).

- o. It was alleged that Jonathan's parents were unaware that policy number LF-xxxx-9513 was issued on behalf of Jonathan.

6. On 14 March 2011, Zavala had a telephone conversation with Felicia Everett regarding the foregoing allegations. In this 14 March 2011 conversation, Felicia Everett informed Zavala that Zavala's appointment with State Farm was being terminated due to alleged misconduct.

7. In March 2011, State Farm terminated Zavala's appointment. In a letter dated 21 March 2011, State Farm notified the Maryland Insurance Administration that Zavala was "terminated for cause based on findings from an internal investigation conducted by State Farm" and that Zavala "was terminated for submitting applications for life insurance for people who had not requested any and for forging the applicants' signatures on the applications."

8. Zavala was aware in March 2011 that State Farm terminated her appointment on grounds of alleged misconduct.

9. The Maryland Insurance Administration regulates insurance producers in the state of Maryland.

10. As a result of the foregoing allegations regarding Zavala's completion and submission of insurance policy applications, the Maryland Insurance Administration commenced administrative action against Zavala's insurance producer license.

11. On or about 16 May 2011, the Maryland Insurance Administration sent Zavala written correspondence notifying Zavala that the Maryland Insurance Administration had received a complaint from State Farm about her alleged misconduct and that the Maryland Insurance Administration desired to interview Zavala about her alleged misconduct.

12. On or about 31 May 2011, the Insurance Commissioner of Maryland issued an order to Zavala ordering Zavala to appear before the Maryland Insurance Commissioner on 14 June 2011 and to produce certain documents for inspection. This order was captioned as, "Order to Appear," indicating a docket number of "Case No.: LH-34-2011."

13. The Order to Appear notified Zavala that "Failure to appear or to comply with any portion of this Order, will be considered a violation of this order and a violation of the Insurance Article, Annotated Code of Maryland and may subject you to administrative action."

14. Zavala violated the Order to Appear by failing to appear before the Maryland Insurance Commissioner.

15. On or about 1 September 2011, the Maryland Insurance Commissioner issued an order revoking Zavala's license to act as an insurance producer (Maryland Revocation Order).

16. The Maryland Revocation Order, *inter alia*, revoked Zavala's license under Maryland Insurance statutes, Md. Code Ann. §§ 2-203(f)(1)(i) and (ii) and 10-126(a)(1), (11) and (13), based upon the "failure of Zavala to respond to correspondence from the administration, appear when ordered to do so, and failure to cooperate with the administration's investigation."

17. The Maryland Revocation Order additionally imposed a fine of \$2500.00.

18. At the time Zavala applied for and received an insurance producer license in North Carolina, Agent Services was unaware of the foregoing alleged violations of insurance law by

Zavala in the state of Maryland, and Agent Services was unaware of the administrative proceedings against Zavala's insurance producer license in Maryland.

19. Notwithstanding that Zavala knew and understood that she was terminated by State Farm in March 2011 for alleged misconduct, when Zavala applied to NCDOI for an insurance producer license on or about 7 July 2011, she intentionally and knowingly answered "No" to the following question: "Have you . . . [e]ver had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct?"

20. When Zavala applied to NCDOI for a producer license on or about 7 July 2011, she was on notice from the correspondence from the Maryland Insurance Administration dated 31 May 2011 and the Order to Appear dated 31 May 2011 that she had been named or involved as a party in an administrative proceeding against her insurance producer license in Maryland.

21. Notwithstanding that Zavala was on notice that she was named or involved as a party in an administrative proceeding against her insurance license in Maryland, when Zavala applied to NCDOI for an insurance license on or about 7 July 2011, she intentionally and knowingly answered "No" to the following question: "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"

BASED UPON the foregoing Findings of Fact, the undersigned Hearing Officer makes the following:

CONCLUSIONS OF LAW

1. This matter is properly before the Commissioner of Insurance, and he has jurisdiction over the parties and the subject matter pursuant to Chapter 58 of the North Carolina General Statutes.

2. Notice of the administrative hearing in this matter was timely and proper.

3. N.C. Gen. Stat. § 58-33-46(a)(1) provides:

(a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

(1) Providing materially incorrect, misleading, incomplete, or materially untrue information in the license application.

4. Zavala provided materially incorrect, misleading, incomplete, and materially untrue information in her application for a North Carolina insurance producer license by intentionally and knowingly failing to disclose that State Farm terminated her appointment due to alleged misconduct. This failure to disclose violated N.C. Gen. Stat. § 58-33-46(a)(1). This violation of N.C. Gen. Stat. § 58-33-46(a)(1) is in and of itself sufficient grounds to revoke her North Carolina producer license.

5. Zavala provided materially incorrect, misleading, incomplete, or materially untrue information in the application for a North Carolina insurance producer license by intentionally and knowingly failing to disclose that she was named or involved as a party in an administrative proceeding against her insurance license in the state of Maryland. This failure to disclose violated N.C. Gen. Stat. § 58-33-46(a)(1). This violation of N.C. Gen. Stat. § 58-33-46(a)(1) is in and of itself sufficient grounds to revoke her North Carolina producer license.

6. Zavala's North Carolina producer license should be revoked due to her foregoing violations of N.C. Gen. Stat. § 58-33-46(a)(1).

ORDER

BASED UPON the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Zavala's North Carolina producer license to transact insurance in the areas of Life, Accident & Health or Sickness, Property and Casualty is revoked.

This 5^K day of December 2012.



Stewart Johnson, Hearing Officer
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, North Carolina 27699-1201

Appeal Rights:

This Order, which is considered a Final Agency Decision, may be appealed to Superior Court within 30 days of receipt of this Order, as set out in Chapter 150B of the North Carolina General Statutes.

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that I have this day served the foregoing ORDER AND FINAL AGENCY DECISION REVOKING LICENSE by certified mail, return receipt requested, first class postage prepaid, addressed as follows:

Ilsa Noemi Zavala
201 Plaza Hollow Drive
Apartment 49
Winston Salem, North Carolina 27107

USPS Tracking No. 7005 2570 0002 0973 2551

This 11th day of December 2012.

ROY COOPER
ATTORNEY GENERAL



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