

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

Proceedings by the Commissioner)
of Banking and Insurance, State)
of New Jersey, to fine, suspend)
or revoke the insurance license)
of Magdalena Guzman, Reference)
No. 1300136)

**ORDER
TO
SHOW CAUSE**

To: Magdalena Guzman
423 New Brunswick Avenue
Perth Amboy, NJ 08861

Magdalena Guzman
4640 Deleon Street, Apt. H147
Fort Myers, FL 33907

THIS MATTER, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), State of New Jersey, upon information that Magdalena Guzman (“Guzman” or “Respondent”) may have violated various provisions of the insurance laws of the State of New Jersey; and

WHEREAS, Respondent was licensed as a resident insurance producer pursuant to N.J.S.A. 17:22A-32a until her license expired on July 31, 2015; and

WHEREAS, Respondent is subject to the provisions of the New Jersey Insurance Producer Licensing Act of 2001, N.J.S.A. 17:22A-26 et seq. (“Producer Act”), the regulations governing Insurance Producer Standards of Conduct, N.J.A.C. 11:17A-1.1 et seq., the New Jersey

Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 et seq. (“Fraud Act”) and the regulations promulgated thereunder, N.J.A.C. 11:16-1.1 et seq., and;

WHEREAS, pursuant to N.J.S.A. 17:22A-40d, the Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Producer Act and Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes against any person who is under investigation for or charged with a violation of the Producer Act or Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes even if the person’s license or registration has been surrendered or has lapsed by operation of law; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(2), an insurance producer shall not violate any insurance law, regulation, subpoena or order of the Commissioner or of another state’s insurance regulator; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(5), an insurance producer shall not intentionally misrepresent the terms of an actual or proposed insurance contract, policy or application for insurance; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(8), an insurance producer shall not use fraudulent, coercive or dishonest practices, or demonstrate incompetence, untrustworthiness or financial irresponsibility in the conduct of insurance business in this State or elsewhere; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(10), an insurance producer shall not forge another’s name to an application for insurance or to any document related to an insurance transaction; and

WHEREAS, pursuant to N.J.S.A. 17:22A-40a(16), an insurance producer shall not commit any fraudulent act; and

WHEREAS, pursuant to N.J.A.C. 11:17A-4.8, an insurance producer shall reply, in writing, to any inquiry of the New Jersey Department of Banking and Insurance (“Department”) relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given; and

WHEREAS, pursuant to N.J.S.A. 17:22A-45c, any person violating the Producer Act is subject to a penalty not exceeding \$5,000.00 for the first offense, and not exceeding \$10,000.00 for each subsequent offense; moreover, the Commissioner may order restitution of moneys owed any person and reimbursement of costs of the investigation and prosecution; and

WHEREAS, pursuant to N.J.S.A. 17:33A-4a(4)(b), a person who prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract, violates the Fraud Act; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5a and 5c, violations of the Fraud Act subject the violator to a civil and administrative penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation and \$15,000.00 for each subsequent violation; moreover, the Commissioner may issue a final order assessing restitution and costs of prosecution, including attorneys’ fees; and

WHEREAS, pursuant to N.J.S.A. 17:33A-5.1, any person who is found in any legal proceeding to have committed insurance fraud shall be subject to a surcharge in the amount of \$1,000.00; and

COUNT 1

IT APPEARING, that at all relevant times, Guzman was a producer and associate for the American Family Life Assurance Company of Columbus (“Aflac”); and

IT FURTHER APPEARING, that in August 2013, Guzman met with R.T., the office manager of an automobile body shop business located in Passaic, New Jersey (the “Auto Body Shop”) to review the Auto Body Shop’s insurance coverages; and

IT FURTHER APPEARING, that R.T. advised Guzman that the Auto Body Shop was not interested in purchasing any insurance products; and

IT FURTHER APPEARING, that R.T. did not provide Guzman with any information about employees or sign any documents; and

IT FURTHER APPEARING, that on or about August 9, 2013, Guzman submitted to Aflac, on behalf of the Auto Body Shop, an Aflac Payroll Account Acknowledgment form with the forged signature of R.T., which form authorizes Aflac to offer insurance to the employer’s officers and employees and obligates the employer to deduct premiums for the Aflac insurance from the wages of the persons electing to purchase Aflac coverage and to remit those premiums to Aflac; and

IT FURTHER APPEARING, that on or about September 27, 2013, Guzman submitted to Aflac two policy applications for accident and dental insurance for a fictitious Auto Body Shop employee identified on the application as Mikael Santos and forged Mikael Santos’s signature on the applications; and

IT FURTHER APPEARING, that on or about September 27, 2013, Guzman submitted to Aflac two policy applications for accident and hospital insurance for a fictitious Auto Body Shop employee identified on the application as Javier Golpa and forged Javier Golpa’s signature on the applications; and

IT FURTHER APPEARING, that on or about September 27, 2013, Guzman submitted to Aflac three policy applications for accident, hospital and dental insurance for a fictitious Auto Body Shop employee identified on the application as Juan Bautista and forged Juan Bautista's signature on the applications; and

IT FURTHER APPEARING, that Guzman submitted to Aflac one false Payroll Account Acknowledgement Application form and seven false policy applications for insurance for three fictitious Auto Body Shop employees and forged their signatures in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (10) and (16); and

COUNT 2

IT FURTHER APPEARING, that Guzman prepared and presented to Aflac, for the purpose of obtaining insurance policies, one false Payroll Account Acknowledgement form and seven false policy applications for insurance from the Auto Body Shop knowing that the statements contained false and misleading information concerning material facts to the insurance applications or contracts in violation of N.J.S.A. 17:33A-4a(4)(b); and

COUNT 3

IT FURTHER APPEARING, that on or about December 18, 2013, Guzman submitted to Aflac a Payroll Account Acknowledgment Application form on behalf of a hair salon business allegedly known as "Beauty on You" with an address of "336 Sherman Street, Suite C, Passaic, New Jersey 07055" and forged the signature of Paola Blanco who was represented as the authorized employer signature for Beauty on You; and

IT FURTHER APPEARING, that there was no hair salon business known as Beauty on You located at 336 Sherman Street, Suite C, Passaic, New Jersey 07055 and the name

Paola Blanco could not be verified as being associated with any business known as Beauty on You;
and

IT FURTHER APPEARING, that between December 20, 2013 and January 7, 2014, Guzman submitted to Aflac three policy applications for accident, hospital and dental insurance for a fictitious Beauty on You employee identified on the application as Julia Maria and forged Julia Maria's signature on the applications; and

IT FURTHER APPEARING, that between December 20, 2013 and January 7, 2014, Guzman submitted to Aflac two policy applications for accident and dental insurance for a fictitious Beauty on You employee identified on the application as Judith Gonzalez and forged Judith Gonzalez's signature on the applications; and

IT FURTHER APPEARING, that between December 20, 2013 and January 7, 2014, Guzman submitted to Aflac three policy applications for accident, hospital and cancer insurance for a fictitious Beauty on You employee identified on the application as Yvette Rodriguez and forged Yvette Rodriguez's signature on the applications; and

IT FURTHER APPEARING, that on or about December 20, 2013, Guzman submitted to Aflac two policy applications for hospital and cancer insurance for a fictitious Beauty on You employee identified on the application as Menlay Ochoa King and forged Menlay Ochoa King's signature on the applications; and

IT FURTHER APPEARING, that between December 20, 2013 and January 7, 2014, Guzman submitted to Aflac two policy applications for accident and hospital insurance for a fictitious Beauty on You employee identified on the application as Sandra Ortiz and forged Sandra Ortiz's signature on the applications; and

IT FURTHER APPEARING, that between December 20, 2013 and January 7, 2014, Guzman submitted to Aflac three policy applications for accident, hospital and dental insurance for a fictitious Beauty on You employee identified on the application as Vicky Diaz and forged Vicky Diaz's signature on the applications; and

IT FURTHER APPEARING, that between December 20, 2013 and January 7, 2014, Guzman submitted to Aflac two policy applications for accident and hospital insurance for a fictitious Beauty on You employee identified on the application as Yesenia Rodriguez and forged Yesenia Rodriguez's signature on the applications; and

IT FURTHER APPEARING, that between December 2013 and January 2014, Aflac paid Guzman commissions in the amount of \$1,162.62 for the policies issued to the fictitious Beauty on You employees; and

IT FURTHER APPEARING, that Aflac that could not verify that the policy holders existed; and

IT FURTHER APPEARING, that Guzman submitted to Aflac one false Payroll Account Acknowledgement Application form and seventeen false policy applications for insurance for fictitious Beauty on You employees under seven false employee names and forged the signatures in violation of N.J.S.A. 17:22A-40a(2), (5), (8), (10) and (16); and

COUNT 4

IT FURTHER APPEARING, that Guzman prepared and presented to Aflac, for the purpose of obtaining insurance policies, one false Payroll Account Acknowledgement form and seventeen false policy applications for insurance for the fictitious Beauty on You employees as described in Count 3, knowing that the statements contained false and misleading information

concerning material facts to the insurance applications or contracts in violation of N.J.S.A. 17:33A-4a(4)(b); and

COUNT 5

IT FURTHER APPEARING, that Guzman failed to provide a written response with supporting documentation relative to the Auto Body Shop's insurance applications submitted to Aflac in response to Department letters dated November 5, 2014, November 24, 2014 and December 9, 2014 and to Subpoena 15-01 issued by the Department on February 4, 2015, in violation of N.J.S.A. 17:22A-40a(2) and N.J.A.C. 11:17A-4.8; and

NOW, THEREFORE, IT IS on this ^{7th} day of FEBRUARY,
2018

ORDERED, that Respondent appear and show cause why her New Jersey insurance producer license should not be suspended or revoked pursuant to N.J.S.A. 17:22A-40a; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of up to \$5,000.00 for the first violation and \$10,000.00 for each subsequent violation of the Producer Act and order Respondent to pay restitution of moneys owed to any person pursuant to the provisions of N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why, in addition to any other penalty, she should not be required to reimburse the Department for the cost of the investigation and prosecution as authorized pursuant to N.J.S.A. 17:22A-45c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess a civil penalty of not more than \$5,000.00 for the first violation, \$10,000.00 for the second violation, and \$15,000 for each subsequent violation of the Fraud Act and order restitution pursuant to N.J.S.A. 17:33A-5c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not assess the costs of prosecution, including attorneys' fees, pursuant to N.J.S.A. 17:33A-5c; and

IT IS FURTHER ORDERED, that Respondent appear and show cause why the Commissioner should not impose a \$1,000.00 surcharge against her in accordance with N.J.S.A. 17:33A-5.1; and

IT IS PROVIDED, that Respondent has the right to request an administrative hearing, to be represented by counsel or other qualified representative, at her own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER PROVIDED, that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondent, and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by mailing the request to Virgil Downtin, Chief of Investigations, Department of Banking and Insurance, P.O. Box 329, Trenton, New Jersey 08625, or by faxing the hearing request to the Department at (609) 292-5337. The request shall contain the following:

- (a) Respondent's full name, address and daytime telephone number;
- (b) A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
- (c) A specific admission or denial of each fact alleged in this Order to Show Cause. Where the Respondent has no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause

not answered in the manner set forth above shall be deemed to have been admitted; and

- (d) A statement requesting the hearing.



Peter L. Hart
Director of Insurance