

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

**Enforcement Case No. 14-11987
Agency Case No. 14-055-L**

Petitioner,

v

Dennis Buttrom

System ID No. 0464121

Respondent.

Issued and enter
this 29th day of April 2015
by Randall S. Gregg
Special Deputy Director

FINAL DECISION

I. BACKGROUND

Respondent Dennis Buttrom (Respondent) is a licensed insurance producer. In December 2012 the Department of Insurance and Financial Services (DIFS) received a notice of cancellation from the American Family Life Assurance Company of Columbus (AFLAC) alleging that Respondent submitted invalid and fraudulent business to AFLAC in order to receive advanced commissions from AFLAC. DIFS investigated the allegations and on September 16, 2014, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) to Respondent at his last known address alleging that Respondent had violated Section 1238(1) of the Michigan Insurance Code (Code), MCL 500.1238(1), and had provided justification for revocation of licensure pursuant to Section 1239(1)(b), (d) and (h) of the Code, MCL 500.1239(1)(b), (d) and (h).

On December 19, 2014, DIFS issued an Administrative Complaint and Order for Hearing to Respondent at his last known address. The Order for Hearing required Respondent to take one of the following actions within 21 days: agree to a resolution of the case, file a response to the allegations with a statement that Respondent planned to attend the hearing, or request an adjournment. Respondent failed to take any of these actions.

On March 19, 2015, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the

Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director.
2. At all relevant times, Respondent was a licensed resident producer with qualifications in accident and health, casualty, life, property, surety & fidelity, and variable annuities.
3. On or about August 27, 2013, DIFS Staff received a termination for cause notice from AFLAC, stating AFLAC was cancelling Respondent's appointment due to an investigation that revealed Respondent had submitted invalid and fraudulent business to AFLAC and refused to cooperate with the investigation.
4. On December 12, 2013, DIFS Staff received a CD from B. Lamb, AFLAC Investigator. The CD contained copies of applications written by Respondent and two other insurance producers, A. G. [REDACTED] and C. D. [REDACTED], between June 14, 2011, and May 31, 2012, as well as the audio recording of an interview conducted by Mr. Lamb with C. D. [REDACTED], and spreadsheets showing the fictitious policies submitted to AFLAC by Respondent, A. G. [REDACTED] and C. D. [REDACTED].
5. C. D. [REDACTED] admitted during the interview with Mr. Lamb that he allowed Respondent and A. G. [REDACTED] to write business using his laptop and writing number. After C. D. [REDACTED] received the advanced commissions for the business, he paid Respondent and A. G. [REDACTED] a portion of the commissions in cash. Respondent and A. G. [REDACTED] were paid in this manner because they were on an "as earned" status with AFLAC and could not receive advanced commissions.
6. DIFS Staff attempted to contact each of the insureds listed on applications submitted by the Respondents. DIFS Staff was unable to contact the listed insureds as the phone numbers listed on the applications were no longer in service or belonged to a different individual or entity than were identified on the AFLAC applications.
7. DIFS' licensing database lists Respondent's self-reported mailing address as: [REDACTED]
[REDACTED].
8. DIFS Staff also identified additional addresses associated with Respondent: [REDACTED]
[REDACTED] and [REDACTED].
9. On or about January 17, 2014, DIFS Staff sent Respondent a letter using the address of [REDACTED] and requested a response by January 31, 2014.

10. On February 2, 2014, DIFS Staff received a phone call from Respondent. Respondent did not address the allegations contained in paragraph 5, but rather stated that in March of 2012 he was admitted into a hospital to have heart surgery and used the next seven months to recover from his surgery. Respondent stated from approximately March to October 2012, while he was recovering, C. D. [REDACTED] used his AFLAC username and password to submit business under Respondent's name. Respondent stated that he and C. D. [REDACTED] had an agreement to split commissions 50/50 on any policies submitted under Respondent's name. Respondent stated that no financial statements were drafted showing the amount of commissions he split with C. D. [REDACTED] or showing from which policies Respondent was receiving commissions.
11. On February 13, 2014, DIFS Staff received a report of investigation from AFLAC. Between June 13, 2013, and June 18, 2013, AFLAC, through Investigator M. Whittlesey, conducted an investigation of Respondent's conduct. AFLAC was unable to contact individuals or entities listed as insureds on policies submitted to AFLAC under Respondent's AFLAC username.
12. Investigator Whittlesey estimates \$29,500.00 in commissions was paid by AFLAC as a result of fake policies submitted to AFLAC through Respondent's AFLAC username.
13. As a licensee, Respondent knew or had reason to know that Section 1238(1) of the Code provides that "When applying for a license to act as an agent, solicitor, counselor, or adjuster, the applicant shall report his or her mailing and electronic mail address to the commissioner. An agent, solicitor, counselor, or adjuster shall notify the commissioner of any change in his or her mailing or electronic mail address within 30 days after the change. The commissioner shall maintain the mailing and electronic mail address of each agent, solicitor, counselor, or adjuster on file."
14. Respondent has failed to notify the Director of any changes to his mailing address within 30 days after the change.
15. As a licensee, Respondent further knew or had reason to know that Section 1239(1)(b) of the Code allows the Director to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner."
16. Respondent violated Section 1238(1) and provided justification for sanctions pursuant to Section 1239(1)(h) by allowing another licensee to use his AFLAC username and password to submit fraudulent applications to AFLAC and receive commissions for these policies.
17. As a licensee, Respondent further knew or had reason to know that Section 1239(1)(h) of the Code allows the Director to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 of the Code for: "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence,

untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”

18. Respondent used fraudulent, dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business by allowing another licensee to use Respondent’s username and password to submit fraudulent applications to AFLAC and by accepting commissions from the fraudulent applications.
19. Based upon the actions listed above, Respondent has committed acts that are grounds for the Director to order payment of a civil fine, refund of any overcharges, that restitution be made to insureds to cover losses, damages or other harm attributed to Respondent’s violation of the Code, and/or licensing sanctions under Section 1239 and 1244(1) of the Code.
20. On September 16, 2014, a NOSC was mailed by first class mail to Respondent at his official address of record as he had reported it to DIFS. The United State Postal Service did not return the NOSC as undeliverable. No response was received from Respondent.
21. DIFS Staff made additional efforts to ascertain an alternate address for Respondent by searching the following:
 - a. The Michigan Secretary of State Database.
22. The search revealed an alternate address.
23. On October 21, 2014, a NOSC was mailed by first class mail to Respondent at: [REDACTED]
[REDACTED] The United State Postal Service did not return the NOSC as undeliverable.
24. On October 27, 2014, Respondent called DIFS Staff. Respondent partially denied the allegations. Respondent stated he would send DIFS Staff a written response to the NOSC. Further, Respondent advised DIFS Staff that his current address is the official address of record as he had self-reported it to DIFS.
25. Respondent failed to send DIFS Staff a written response or to show compliance with the Code.
26. On December 19, 2014, DIFS served Respondent with an Order for Hearing, Administrative Complaint, Statement of Factual Allegations, and Notice of Hearing at official address of record as he had self-reported it to DIFS.
27. The United State Postal Service did not return the documents as undeliverable. No response was received from Respondent
28. On March 19, 2015, a Motion for Final Decision by Default was mailed by first class mail to his official address of record as he had self-reported it to DIFS.

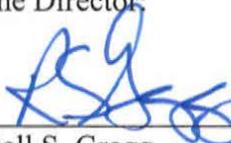
29. Respondent failed to respond to the Motion.
30. Despite DIFS Staff having made reasonable efforts to serve Respondent and having complied with Section 1238(1) of the Code, Respondent has failed to appear and defend.
31. Therefore, where Respondent has received notice and was given an opportunity to have a hearing on this contested case and Respondent has not responded nor appeared to defend, the Petitioner is entitled to an entry of default and a Final Decision revoking Respondent's insurance producer license.

III. ORDER

Based on the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall cease and desist from violating the Code.
2. Respondent shall immediately cease and desist from engaging in the business of insurance.
3. Respondent has violated Section 1238(1) of the Code, and has provided justification for sanctions pursuant to Section 1239(1)(b) and (h) of the Code. Pursuant to Section 1244(1)(d) of the Code, Respondent's resident insurance producer license is **REVOKED**.

Annette E. Flood, Director
For the Director:



Randall S. Gregg
Special Deputy Director