

**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. 15-12466
Agency No. 15-043-L**

Petitioner,

v

Jason P. Pace

System ID No. 0182755

Respondent.

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Issued and entered
on November 5, 2015
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

Jason P. Pace (hereinafter Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to remit premiums he collected to Allstate and falsely represented to insureds that they had insurance coverage. After investigation and verification of the information, on May 27, 2015, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(1) and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On July 31, 2015, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address he is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to respond or take any action.

On October 22, 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 of the Department of Insurance and Financial Services (Director).
2. At all relevant times, Jason P. Pace (Respondent) was a licensed resident insurance producer in the state of Michigan, with qualifications in accident and health, casualty, life, and property insurance.
3. On or about November 3, 2014, the Department of Insurance and Financial Services (DIFS) received a complaint from C.H. alleging that Respondent engaged in fraudulent and dishonest business practices while he was an independent contractor working as an agent at C.H.'s insurance agency. C.H. alleged that Respondent misrepresented insurance coverage, collected and failed to remit premiums to insurers, and made false statements to cover up his activities.

COUNT I

4. In early 2013, Respondent submitted an application on behalf of I.S. for insurance from Allstate for a leased motor vehicle. The policy had an effective date of June 17, 2013.
5. Around June of 2013, Allstate contacted I.S. indicating that there was a problem with the automatic premium payment withdrawal on her policy. I.S. worked with Respondent to resolve the issue and believed the issue was resolved and that she had insurance.
6. On or about June 28, 2013, I.S. made an electronic payment on the policy in the amount of \$280.31. On July 29, 2013, I.S. made another electronic payment on the policy in the amount of \$280.32. The policy was cancelled on September 27, 2013, due to nonpayment, but I.S. was unaware of the cancellation.
7. In late January or early February 2014, I.S. traded in the leased vehicle for another vehicle. In order to complete the transaction, she contacted Respondent for insurance on the new vehicle. Respondent provided I.S. with proof of insurance.
8. Allstate's records indicate a new policy (#xxxxx7202) was written for I.S. with an effective date of February 6, 2014. I.S. believed the premium payments continued to be made through electronic withdrawal. However, the policy was subsequently cancelled on March 17, 2014, for nonpayment, and no payments were ever applied to the policy.

9. On August 1, 2014, I.S. was renewing her license plate at the Michigan Secretary of State (SOS), but did not have proof of automobile insurance with her and contacted Respondent to request that a proof of automobile insurance be faxed to the SOS.
10. Respondent advised I.S. that he was not in the office and could not fax a proof of insurance to her. He instead requested that they meet on August 4, 2014, to renew her six-month policy. I.S. agreed, but was involved in an automobile accident on August 2, 2014.
11. From August 2, 2014, through October 15, 2014, I.S. communicated with Respondent in an effort to resolve her claims arising from the automobile accident. Respondent sent a number of text messages to I.S. assuring her that she had insurance coverage for her automobile and that he was taking care of her claim. I.S. subsequently learned that she did not have automobile insurance and that an unknown vehicle was instead listed on her policy. Even though Respondent filed a claim relating to I.S.'s automobile accident with his errors and omissions insurance carrier, he continued to assure I.S. that she had Allstate coverage and continued to hold himself out as an Allstate agent despite having been previously terminated by Allstate.
12. In October, Respondent finally admitted to I.S. that he had never entered her electronic payments and had caused the policy to lapse.
13. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”
14. Respondent has provided justification for suspension or revocation of licensure by failing to remit premium payments and for providing misleading information to I.S. regarding her insurance coverage.

COUNT II

15. J.V. and K.V. purchased Allstate automobile insurance through Respondent on September 7, 2013. On July 30, 2014, one of their vehicles was involved in an accident. J.V. attempted to resolve the complaint through Respondent.
16. From July 30, 2014, until September of 2014, Respondent assured J.V. that he had submitted an insurance claim to Allstate and Allstate was processing the claim. However, Respondent had not submitted the claim to Allstate.
17. In fact, Allstate had cancelled J.V.'s and K.V.'s policy due to nonpayment on or about May 2014. However, Respondent continued to issue proofs of insurance to J.V. and K.V.

18. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”
19. Respondent has provided justification for suspension or revocation of licensure for falsely representing to the insureds that a claim had been submitted and was being handled by Allstate and for providing them with fraudulent proofs of insurance.

COUNT III

20. On or about September 3, 2014, A.M. paid Respondent \$300 in cash plus \$400 by check toward payment on his automobile insurance policy. Respondent told A.M. the money would be applied to the policy, but had the check made payable to Respondent. Respondent thereafter cashed the check, but Allstate’s records indicate that no money was ever applied to A.M.’s automobile insurance policy.
21. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), states in pertinent part that “[a]n agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent’s fiduciary responsibility.”
22. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state’s insurance commissioner.”
23. As a licensee, Respondent knew or had reason to know that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.”
24. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [u]sing

fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”

25. Respondent collected premiums from an insured and failed to remit the premiums to the insurer as required by the Code, in violation of Section 1207(1) of the Code, MCL 500.1207(1).
26. Respondent provided justification for suspension or revocation of licensure by failing to remit to the insurer the premiums collected from an insured.
27. Respondent provided justification for suspension or revocation of licensure by improperly withholding or converting premiums he received from an insured for insurance.

COUNT IV

28. On or about February 18, 2014, V.S. purchased an automobile insurance policy from Respondent and made a down payment on the policy in the amount of \$230. From March 2014, through August 2014, V.S. met Respondent in a bank parking lot and made a monthly insurance premium payment to Respondent in the amount of \$253.
29. In September 2014, V.S. spoke with another insurance agent due to unsuccessful attempts to contact Respondent regarding her policy. V.S. learned that her automobile policy had been cancelled and Respondent had not applied her premium payments to the automobile policy.
30. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), states in pertinent part that “[a]n agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent’s fiduciary responsibility.”
31. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state’s insurance commissioner.”
32. As a licensee, Respondent knew or had reason to know that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.”

33. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states that “[i]n addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer’s license or may levy a civil fine under section 1244 or any combination of actions ... for [u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”
34. Respondent collected premiums from an insured and failed to remit the premiums to the insurer as required by the Code, in violation of Section 1207(1) of the Code, MCL 500.1207(1).
35. Respondent has provided justification for suspension or revocation of licensure by failing to remit to an insurer the premiums he collected from an insured.
36. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondent’s violations of the Code, and/or other licensing sanctions, including revocation of licensure pursuant to MCL 500.1207(1), MCL 500.1239(1)(b), MCL 500.1239(1)(d), and MCL 500.1239(1)(h).
37. On May 27, 2015, a Notice of Opportunity to Show Compliance was mailed by first class mail to Respondent at the following address that Respondent is required to keep on file with DIFS: 670 Barber Avenue, Ann Arbor, Michigan 48103. No response was received and the mail was not returned by the United States Postal Service.
38. On August 3, 2015, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at the following address on record with DIFS: 670 Barber Avenue, Ann Arbor, Michigan 48103.
39. DIFS has not received a response from Respondent.
40. In paragraph 3 of the Order for Hearing, the Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to a resolution with the opposing party, 2) file a response to the allegations in the Administrative Complaint, or 3) file a request for an adjournment. Paragraph 5 states that failure to make the required filing shall constitute the default of Respondent in this contested case.
41. Respondent has failed to take any of the actions required by paragraph 3 of the Order. *See Petitioner’s Exhibit 1, Affidavit of Tracy A. Janousek.*
42. Despite DIFS Staff having made reasonable efforts to serve Respondent and having complied with 500.1238(2), Respondent has failed to appear and defend.

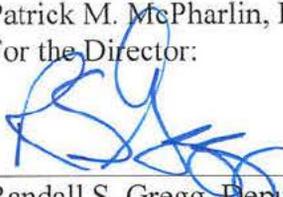
43. Therefore, where Respondent has received notice and was given an opportunity to have a hearing on this contested case and Respondent has not responded nor appeared to defend, the Petitioner is entitled to an entry of default and a Final Decision revoking Respondent's resident insurance producer license.
44. Respondent has provided justification for discipline for falsely representing to insureds that a claim had been submitted and was being handled by Allstate and for providing fraudulent proofs of insurance.
45. Respondent provided justification for suspension or revocation of licensure by failing to remit to insurers the premiums collected from insureds, and improperly withholding or converting premiums he received from insureds for insurance.
46. DIFS Staff have made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
47. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
48. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

III. Order

Based upon 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. Pursuant to MCL 500.1207(1), MCL 500.1239(1)(b),(d) and (h), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0182755) is **REVOKED**.

Patrick M. McPharlin, Director
For the Director:



Randall S. Gregg, Deputy Director