

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

MARK BERARD
System ID No. 0337840

ENFORCEMENT CASE NO. 14-12112

Respondent.

_____ /

**Issued and entered
on April 25, 2016
By Teri L. Morante
Chief Deputy Director**

ORDER ACCEPTING STIPULATION

Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS) in this matter, the Chief Deputy Director finds and concludes that:

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 (DIFS).
2. The Chief Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 (APA), as amended, MCL 24.201 et seq., and the Michigan Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
3. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
4. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
5. All applicable provisions of the APA have been met.
6. On or about April 6, 2015, Michigan Administrative Hearing System issued a Notice of Hearing and Complaint filed by DIFS alleging Respondent violated Sections 1224(4) and

1242(2) of the Code, MCL 500.1224(4) and MCL 500.1242(2), by being connected with a fire repair contractor.

7. Respondent's connection to a fire repair contractor, contrary to Sections 1224(4) and 1242(2) of the Code, provides justification for the Director to order payment of a civil fine for the violation. MCL 500.1224(4), MCL 500.1242(2), and MCL 500.1244(1)(a).

Now therefore, based upon the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

8. Respondent agrees that he will cease and desist from operating in a manner that violates Section 1224(4) of the Code, MCL 500.1224(4).
9. Respondent shall pay to the state of Michigan, through DIFS, administrative and civil fines in the amount of \$500. Respondent shall pay the fine within 30 days of the invoice date as indicated on the DIFS invoice.
10. Respondent shall be placed on heightened supervision for a period of 12 months beginning January 1, 2016 and ending December 31, 2016, during which the following requirements and prohibitions are applied:
 - a. Respondent shall make a quarterly, written, signed, and notarized report to be submitted to DIFS certifying that he is in compliance with the Code and shall include the following information:
 - i. Respondent's affirmative statements that he is not employed by, nor does he own stock in, or hold a position as an officer or director of, or is in any other manner directly or indirectly, is connected with, a fire repair contractor.
 - ii. Any new investigations, administrative, civil and criminal proceedings brought against him and he shall provide to DIFS a copy of all pleading, judgment, awards or orders filed in furtherance of each action;
 - iii. Any consumer complaints, written or oral; and
 - iv. The name, address and telephone number of each employer with whom he is employed or contracted to provide services and the name of his immediate supervisor. For any periods of unemployment, he must provide a written, signed and notarized statement of any and all adjusting business engaged in during the periods of unemployment.
 - b. The aforementioned disclosure and reports must be addressed to: Department of Insurance and Financial Services, Office of Insurance Licensing and Market Conduct, 530 W. Allegan St., 7th Fl., Lansing, MI, 48909. Reports must be received by DIFS no later than the last day of each quarter (i.e., March 31, June 30, September 30, and December 31, 2015).

11. The Chief Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Code. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.

Dated: April 25, 2016



Teri L. Morante
Chief Deputy Director

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MARK BERARD
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STIPULATION TO ENTRY OF ORDER

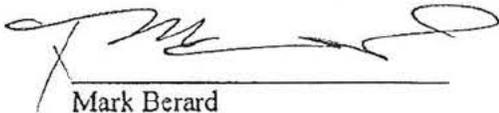
Mark Berard (hereinafter Respondent) stipulates to the following:

1. On or about October 28, 2104, the Department of Insurance and Financial Services (DIFS) served Respondent with a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent violated provisions of the Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
2. At all times, Respondent was licensed with DIFS as a licensed resident insurance adjuster pursuant to the Code.
3. Specifically, the NOSC contained allegations that Respondent violated Section 1224(4) of the Code, MCL 500.1224(4), by being connected with MGM Restoration, Inc., a fire repair contractor.
4. Respondent exercised the right to an opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (APA), MCL 24.201 *et seq.*
5. Respondent and DIFS conferred for the purpose of resolving this matter.
6. All parties have complied with the procedural requirements of the APA and the Code.
7. Respondent neither admits nor denies the allegations contained in the complaint, and has agreed to resolve this matter through this Stipulation to Entry of Order in order to avoid the time and expense of formal proceedings.
8. Respondent agrees that he will cease and desist from operating in a manner that violates Section 1224(4) of the Code, MCL 500.1224(4).
9. Respondent further agrees that he will pay to the state of Michigan, through DIFS, administrative and civil fines in the amount of \$500.00. Respondent further agrees to pay the fine within 30 days of the invoice date as indicated on the DIFS invoice.

10. Respondent further agrees to heightened supervision for a period of 12 months beginning January 1, 2016, and ending December 31, 2016, during which the following requirements and prohibitions are applied:
 - a. Respondent shall make a quarterly, written, signed, and notarized report to be submitted to DIFS certifying that he is in compliance with the Code and shall include the following information:
 - i. Respondent's affirmative statements that he is not employed by, nor does he own stock in, or hold a position as an officer or director of, or is in any other manner directly or indirectly, is connected with, a fire repair contractor.
 - ii. Any new investigations, administrative, civil and criminal proceedings brought against him and he shall provide to DIFS a copy of all pleading, judgment, awards or orders filed in furtherance of each action;
 - iii. Any consumer complaints, written or oral; and
 - iv. The name, address and telephone number of each employer with whom he is employed or contracted to provide services and the name of his immediate supervisor. For any periods of unemployment, he must provide a written, signed and notarized statement of any and all adjusting business engaged in during the periods of unemployment.
 - b. The aforementioned disclosure and reports must be addressed to: Department of Insurance and Financial Services, Office of Insurance Licensing and Market Conduct, 530 W. Allegan St., 7th Fl., Lansing, MI 48909. Reports must be received by DIFS no later than the last day of each quarter (i.e., March 31, June 30, September 30, and December 31, 2016).
11. Respondent understands and agrees that this Stipulation to Entry of Order will be presented to the Chief Deputy Director for approval.
12. The Chief Deputy Director may, in her sole discretion, decide to accept or reject this Stipulation to Entry of Order. If the Chief Deputy Director accepts the Stipulation to Entry of Order, Respondent waives the right to a hearing in this matter and consents to the entry of the Order Accepting Stipulation and Requiring Compliance and Payment of Fines. If the Chief Deputy Director does not accept the Stipulation to Entry of Order, Respondent waives any objection to the Director holding a formal administrative hearing and making his decision after such hearing.
13. Respondent has had an opportunity to review this Stipulation to Entry of Order and the proposed Order Accepting Stipulation and have the same reviewed by legal counsel.
14. It is further stipulated that failure to comply with the Order of the Director accepting this Stipulation by failing to pay the administrative and civil fines as set forth above shall result

in the commencement of an action to suspend all licenses held under the Code held by Respondent.

15. It is further stipulated that the amount of fines and/or fees has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of said fines and/or fees. Should Respondent fail to pay the fines and/or fees in accordance with the terms of this Stipulation and the Director's Order, the parties agree that an action will commence to determine if the Respondent has, in fact, failed to pay, and, if so, Respondent agrees that the fines and/or fees will immediately increase to the maximum amount allowed under the Code and shall be immediately due in full.

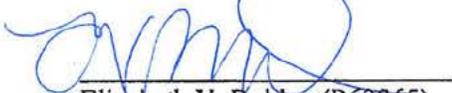


Mark Berard
System ID No. 0337840

4/18/16

Date

DIFS Staff approve this stipulation and recommend that the Chief Deputy Director issue the above Order Accepting Stipulation.



Elizabeth V. Bolden (P69865)
DIFS Staff Attorney

4/19/2016

Date