

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

RICHARD R. CREED
System ID No. 0077638

Enforcement Case No. 16- 12850

EVERGREEN INSURANCE AGENCY, INC.
System ID No. 0014747

Respondents.

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Issued and entered
on January 11th, 2016
by Judith Weaver
Senior Deputy Director

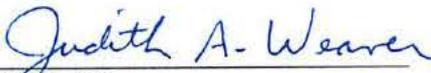
**ORDER OF SUMMARY SUSPENSION, NOTICE OF OPPORTUNITY FOR HEARING,
AND NOTICE OF INTENT TO REVOKE**

Pursuant to Sections 1242 and 1244(3) of the Michigan Insurance Code (Code), MCL 500.1242 and 500.1244(3), and Section 92 of the Michigan Administrative Procedures Act (APA), MCL 24.292, and based upon the attached FINDINGS, including that the public health, safety and welfare require emergency action,

IT IS THEREFORE ORDERED that:

1. The insurance producer licenses and authority of Respondents are **SUMMARILY SUSPENDED**.
2. A copy of this Order shall be immediately served upon Respondents. This order shall be effective upon the date of service.
3. If requested by Respondents, a hearing on this matter shall be held within a reasonable time, but not later than 20 calendar days after service of this Order, unless Respondents request a later date. The hearing shall address the following issues:
 - a. Whether the suspension should be continued or withdrawn.
 - b. Whether Respondents' licenses should be revoked.
4. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.

5. The Director retains jurisdiction of the matters contained within and the authority to issue such further Orders as shall be deemed just, necessary and appropriate.


Judith Weaver
Senior Deputy Director

FINDINGS OF FACT AND CONCLUSIONS OF LAW

6. Pursuant to Executive Order 2013-1 the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Insurance Code of 1956, MCL 500.100 *et seq.*, to exercise general supervision and control over persons transacting the business of insurance in Michigan.
7. Richard R. Creed (Respondent), System ID No. 0077638, is a licensed resident insurance producer in the state of Michigan with qualifications to transact business in the lines of Life, Accident and Health, and Variable Annuities since September 26, 1976, and Property and Casualty since March 1, 2002. Creed is the incorporator, owner and Designated Responsible Licensed Producer (DRLP) of Evergreen Insurance Agency, Inc.
8. Evergreen Insurance Agency (Evergreen), System ID No. 0014747, is a Michigan corporation with its principal place of business located at 205 W. Midland Rd, Auburn, MI 48611. Evergreen is a licensed resident insurance producer agency in the state of Michigan with qualifications to transact business in Property and Casualty effective August 2, 1996.
9. On October 27, 2009, Respondent entered into a Consent Order (2009 Order) with the Michigan Office of Financial and Insurance Regulation (OFIR). The 2009 Order cited Respondent's failure to timely remit premium funds collected in the conduct of business, production of fraudulent insurance certificates, and failure to maintain records.
10. The 2009 Order required Respondent to cease and desist from violation of the Code, pay a \$1,000.00 fine, create a premium sweep account, immediately deposit all premium funds collected into the sweep account, maintain accurate books and records, implement reasonable accounting methods, refuse to accept checks written to individual producers, and cease the issuance of fraudulent insurance certificates.
11. On December 8, 2014, a second Order was issued by DIFS against Respondent (2014 Order). The 2014 Order cited Respondent for failure to comply with four elements of the 2009 order and found:
- Accounting discrepancies between customer receipts, agency logs, and insurer records;
 - Discrepancies between bank statements and agency deposit records;
 - Failure to write and record receipts;

- Failure to keep records in a manner that is open to examination by the Director.
12. The 2014 Order again ordered Respondent to cease and desist from violating the Code, to comply with the 2009 Order, to follow a “daily cash received process,” follow a “customer receipt process,” to keep and maintain all records in a manner open for exam by the Director, and pay a \$5,000.00 fine. The 2014 Order also put Respondent on notice that future failure to comply with the requirements of the 2009 and 2014 Orders may result in revocation of his insurance producer license.
 13. On January 4, 2016, the Department of Insurance and Financial Services (DIFS) received information from Walter Tremonti (Agent Tremonti), Agent with the State of Michigan Department of State (SOS) Fraud Investigation Section, regarding a certificate of no fault insurance purporting to insure an '05 Pontiac with Titan Insurance Company (Titan). The certificate identified policy number [REDACTED] 3777 as providing insurance for the car (Certificate 3777).
 14. Agent Tremonti also provided email correspondence from the SOS Insurance Fraud Prevention Unit indicating that when Titan was contacted to verify the validity of Policy 3777, it was discovered the certificate and Policy 3777 were invalid. The information also indicated that the SOS had a phone conversation with Respondent, in which he stated that the insurance policy number was actually [REDACTED] 6955 (Policy 6955) underwritten by Everest National Insurance Company (Everest). When the SOS contacted Everest, it was discovered that Policy 6955 also did not cover the '05 Pontiac.
 15. DIFS opened an investigation on January 4, 2015, which indicated that on or about October 23, 2015, BP attempted to secure automobile insurance for his 2005 Pontiac through Evergreen. BP met with Respondent and explained his need for insurance. Respondent provided BP with Certificate 3777 identifying Policy [REDACTED] 3777 as providing insurance for the Pontiac. While BP did not obtain a formal receipt, the certificate shows “Pd 161.00 RC.” BP explained the note on Certificate 3777 was the only proof of payment he received from Respondent.
 16. BP explained he discovered Certificate 3777 was not valid after presenting the policy information to the SOS on or about December 30, 2015.
 17. On January 7, 2016, DIFS’ Investigator Blood verified that the Titan Certificate 3777 was invalid as was Policy [REDACTED] 3777.
 18. Respondent knew that MCL 500.1239 provides:
 - (1) In 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, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

* * *
 - (b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

* * *

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

* * *

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

19. Respondent knew that MCL 500.2005 provides:

An unfair method of competition and an unfair or deceptive act or practice in the business of insurance means the making, issuing, circulating, or causing to be made, issued, or circulated, an estimate, illustration, circular, statement, sales presentation, or comparison which by omission of a material fact or incorrect statement of a material fact does any of the following:

(a) Misrepresents the terms, benefits, advantages, or conditions of an insurance policy.

20. Respondent knew that MCL 500.4503 provides:

A fraudulent insurance act includes, but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

(a) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or any agent of an insurer, or any agent of an insurer, reinsurer, or broker any oral or written statement knowing that the statement contains any false information concerning any fact material to an application for the issuance of an insurance policy.

21. Respondent knew or had reason to know that MCL 500.1244(3) provides:

If a person knowingly violates a cease and desist order under this chapter and has been given notice and an opportunity for a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commissioner may order a civil fine of not more than \$10,000.00 for each violation, or a suspension or revocation of the person's license, or both.

By producing a fraudulent certificate of insurance and presenting it to BP as valid Respondents Creed and Evergreen are in violation of the Director's prior Orders to cease and desist from violations of the Code, MCL 500.1239(1)(b), MCL 500.1239(1)(e), MCL 500.1239(1)(h), MCL 500.2005, and MCL 500.4503(a) and are subject to summary suspension pursuant Sections 1242 and 1244(3) of the Michigan Insurance Code (Code), MCL 500.1242 and 500.1244(3), and Section 92 of the Michigan Administrative Procedures Act (APA), MCL 24.292.